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NOMINATION OF WILLIAM S. SESSIONS TO BE DIRECTOR OF THE FBI

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

THE NOMINATION OF JUDGE WILLIAM STEELE SESSIONS TO BE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

SEPTEMBER 9, 1987

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NOMINATION OF WILLIAM S. SESSIONS TO BE DIRECTOR OF THE FBI

WEDNESDAY, SEPTEMBER 9, 1987

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 10:06 a.m. in room SD-226, Dirksen Senate Office Building, Hon. Joseph R. Biden, Jr. (chairman of the committee) presiding.

Also present. Senators Kennedy, Metzenbaum, DeConcini, Leahy, Heflin, Thurmond, Hatch, Grassley, and Specter.

OPENING STATEMENT OF SENATOR JOSEPH R. BIDEN, JR.

The CHAIRMAN. Good morning, and welcome back.

Judge Sessions, welcome to this hearing.

Judge SESSIONS. Thank you, sir.

The CHAIRMAN. Let me explain very briefly what the procedure will be. I welcome both our colleagues from Texas.

What I suggest we do is begin with opening statements. I would ask my colleagues to try to keep these statements as short as possible, if they have them, and in no case should statements be longer than 10 minutes. Then we will ask you to be sworn, Judge, and then be introduced by your compatriots from Texas, if that is appropriate.

Judge, today we begin hearings on your nomination, the nomination of Judge William Steele Sessions to be the next Director of the Federal Bureau of Investigation. This is only the third time this committee has held such hearings since the passage of the law mandating Senate advice and consent on the President's nominee for the Director of the FBI. The FBI Director's post has been occupied by some of our finest public servants, and based on the record before us, Judge Sessions will, in my view, continue this tradition.

The Federal Bureau of Investigation was created almost 70 years ago, with a budget of $70,000 and only 35 full-time staff. Today, the Bureau is in a much different form, is a much different agency. It has a budget of almost $1.5 billion and employs 22,000 women and men.

The FBI is responsible for enforcing the highest priority Federal criminal laws, including statutes dealing with organized crime, white-collar crime, drug trafficking and terrorism. And the FBI is the only agency charged with countering the activities of hostile foreign intelligence agencies operating here in the United States.

As a member of this committee and as a former member of the Intelligence Committee, I have been fortunate to work with former Director William Webster, as almost all—in fact, all of my colleagues have—in his efforts to redirect the Bureau's resources in combatting organized crime and drug trafficking. The crime and drug control programs he started, including his vital initiatives for close cooperation with State and local agencies, will demand our new Director's immediate attention and highest priority. Our Nation's very security is threatened by the greed and ruthlessness of organized criminals and drug traffickers. Those of us in this committee who have been involved, as almost all of us have, in drafting recently laws to encourage these initiatives have a particular duty, in carrying out this oversight responsibility, to see to it that these programs continue as forceful tools in the fight against organized crime and drug abuse.

Despite this outstanding record of the agency over the past, and particularly the last Director, the FBI has at times fallen to the corruption of purpose that unchecked power and excessive secrecy have created in our past. Indeed, the FBI's otherwise noble history has been marred by some very dark days: the Palmer raids of the 1920s; the malicious, I believe, surveillance of Dr. Martin Luther King and other respected civil rights leaders of the 1950s and 1960s; the notorious "Cointelpro" programs of the 1960s and early 1970s, and the massive surveillance and disruption of lawful domestic political activities.

Today, however, the Bureau's once untarnished image largely has been restored. Under the outstanding leadership of Judge William H. Webster, public and congressional confidence is back, in my view, and the morale at the agency is up. Once again, the Bureau is looked at as a defender of our cherished rights and liberties.

But we must understand the lessons of recent history, or we will find, I believe, history repeating itself. In the early 1970s, we saw the Bureau deeply politicized. So in 1976, Congress responded by enacting the FBI Director Statute, which provided that the Director would serve a single, 10-year term. In the words of its author, Senator Robert Byrd of West Virginia, it was designed:

> * * * not only to remove the taint of political manipulation which enshrouded the Federal Bureau of Investigation, but also to prevent future administrations of either party from employing the vast powers of the Nation's foremost law enforcement agency for political needs and/or ideological proclivities * * *

But these concerns may never go completely away. All too recently, we have seen again disturbing indications that efforts at political manipulation by administration officials have threatened the Bureau's independence. No law can completely shield the Bureau from improper influence, but it certainly helps if we learn some lessons from the past experience to insist on standards of sound and ethical judgment by responsible officials. If he is confirmed as FBI Director, Judge Sessions can become a firm ally in this endeavor, as the high standards of rectitude he has exemplified as a judge will put him in very good stead.

These hearings also must examine the nominee's constitutional philosophy to determine whether he has a thorough understanding and appreciation for the Constitution, for the power granted to the

FBI by law, and for the bounds of these authorities. These must be examined by us as well. This spring, when I sought Judge Webster's views on the single most essential qualification for an FBI Director, he gave a very succinct test, and I quote: "The one thing is that whoever is selected is one who has a very firm grasp of the requirements of our Constitution, who sees the FBI as within the law and its mission to uphold the law. And you uphold it not by being outside it, but by being inside it and demonstrating by increased professional capacity your ability to function within the rule of law."

I believe, as I believe all of my colleagues do, that Judge Webster is absolutely right. We do not require nor should we seek to circumvent the Constitution in our attack on crime and hostile intelligence agencies. Following Judge Webster's eloquent guidance, tough, aggressive law enforcement must be our goal; respect for individual rights must be our byword.

Individual rights are especially vulnerable in the investigation of domestic security cases. As the Church committee told us in its investigation of the FBI's domestic security activities, hundreds of thousands of Americans were subjected to surveillance at one time or another, yet a mere handful of individuals were charged with criminal violations.

When Chief Justice Harlan Fiske Stone served as Attorney General for President Coolidge, he stood firmly for a proper balance between legitimate law enforcement and respect for our citizens' first amendment rights. When he announced the Bureau's investigative policy, he left no room for doubt when he said, "The Bureau of Investigation is not concerned with political or other opinions of individuals. It is concerned only with their conduct and then only with such conduct as is forbidden by the laws of the United States of America."

Today, this committee must join in ensuring that the Bureau, under Judge Sessions' leadership, remains steadfast in its commitment to the goals and mission set forth by Attorney General Stone over half a century ago.

In sum, the Judiciary Committee must apply several key tests as we consider the qualifications of Judge Sessions to be the next Director of the FBI:

One, does the nominee possess the personal background and moral character to be the Director of the chief Federal law enforcement agency in America?

Two, does the nominee have the qualities of leadership to respond to new and emerging problems, and ensure that the FBI is the finest law enforcement agency in the world?

Three, is the nominee committed to maintain the independence of the Bureau's investigations and to resist attempts to politicize the Bureau's operations?

I emphasize that third point.

And, fourth, is the nominee committed to the rule of law, and will he ensure that the Bureau respects the individual rights that the Constitution guarantees and that we cherish as a free people?

So we turn to the nomination before us today after the rest of the opening statements. Judge Sessions has developed a reputation as a tough but fair jurist, a man of honor and integrity. For the

last two decades, he has devoted his career to public service. As a section chief in the Department of Justice, as a U.S. attorney, as a Federal district court judge, his intellectual ability and hard work have served this country well.

While Judge Sessions' distinguished record speaks for itself, I cannot overemphasize the importance of the questions we ask him today. The FBI touches the lives of thousands of Americans every day. To shield our Nation from dire threats, we have bestowed upon the Bureau great resources and vast powers. As it seeks to protect our citizens from those threats, it must remain true to the principles of liberty that form the birthright of every American citizen.

So with that in mind, I congratulate Judge Sessions on being nominated, welcome him here today, and we will move forward with his testimony and swearing him in upon completion of the opening statements.

I yield to the Senator from South Carolina, Senator Thurmond, the ranking member.

OPENING STATEMENT OF SENATOR STROM THURMOND

Senator THURMOND. Thank you, Mr. Chairman.

This morning, we begin the confirmation hearings on President Reagan's nomination of Judge William S. Sessions to be Director of the Federal Bureau of Investigation. Judge Sessions, I would like to welcome you and your family here today and extend my congratulations on your nomination. You can be proud of the trust and confidence placed in you by the President.

As my colleagues are well aware, Judge Sessions has had a long and impressive record as a trial judge, prosecutor, and practicing attorney. Judge Sessions' extensive background has prepared him well for this position. As a Federal district court judge, he has demonstrated that he is an able jurist. He has a reputation as a tough but fair judge, and one that has ensured the even-handed administration of justice.

In this position, one must be fearless but must be fair. The position of Director of the FBI is one of the most important of all law enforcement, and I believe Judge Sessions possesses the knowledge, the judgment, the integrity, and the experience to serve in an exemplary manner as Director.

Again, Judge Sessions, we are pleased to have you here today, and I look forward to hearing your testimony. I am confident the committee will favorably report your nomination when we vote next Tuesday.

I want to say, too, that a former law partner of mine, who is now the chief judge in South Carolina, is a close friend of Judge Sessions, and he knows him well. He told me that the President could not have selected a more able judge, a fairer judge, and one who will fill this position in a more exemplary manner. That is Judge Charles E. Simons, Jr.

Also, I want to say to you, Judge, on your own you do not need any help. Your record speaks for itself, and I think you will be confirmed without any question at all. However, you have got two very able Senators from Texas here who are endorsing you strongly,

Senator Gramm and Senator Bentsen. Both are held in high respect, and I am sure that you will sail right through and we will be proud of you.

Thank you very much.

The CHAIRMAN. Senator Kennedy.

OPENING STATEMENT OF SENATOR EDWARD M. KENNEDY

Senator KENNEDY. Thank you, Mr. Chairman.

I, too, want to join the other members of the committee who have commended Judge Sessions on his nomination. The fact he was chosen for this very important position is a tribute to his ability and his long record of public service. I also commend him for his willingness to pull up stakes after many years in Texas to take on this enormous challenge.

Second, I join with those who have expressed their appreciation for the outstanding contribution Judge Webster made to the FBI and, indeed, to the country as the Bureau's Director. Judge Webster was appointed at a time of great uncertainty for the Bureau. In the past 9 years, Judge Webster has served the country very well, and he has succeeded in restoring the confidence of Congress and the American people in the FBI. He is well on his way now to doing the same for the CIA.

With respect to the pending nomination, the future will present major challenges to the FBI's new Director. He will face the task of vigorously pursuing law enforcement while diligently guarding against undue intrusions into the private lives of our citizens. The next Director will have to develop effective and creative new strategies to combat crime while adhering to the fundamental principles of our free society.

Judge Sessions can count on the full support of Congress in meeting that challenge, and I look forward to working with him in the years ahead to maintain the FBI as the pre-eminent law enforcement agency in the country.

Finally, as all of us are aware, this proceeding is the lull before the storm. The Bork hearings begin next week, and the contrast could not be more stark. By its nomination of Judge Sessions, the Reagan administration has shown that it knows how to choose a conservative for high office who has the broad respect and support of the Congress. Perhaps when the Bork controversy is resolved, the administration may wish that it had left Judge Bork on the court of appeals and nominated Judge Sessions for the Supreme Court.

Thank you.

The CHAIRMAN. Senator Hatch.

OPENING STATEMENT OF SENATOR ORRIN G. HATCH

Senator HATCH. I found the last remarks more than interesting.

Judge Sessions, I too share a tremendous regard for you, for your legal ability, for your service to this country in the Justice Department, as a judge, and I want to welcome you to this committee. I think it is a tremendous appointment, and I strongly support it.

I also want to thank the Chairman for holding these hearings in such an expeditious manner given the full agenda that we will

have on this committee over the next number of months. And while this position has been open for longer than some would prefer, I guess we need to understand that there are not many people that we could really consider for this position either. So it is difficult to fill the vacancy left by Judge Webster, and I believe you will do that and do it well. I think with your nomination we found a person who can do it and do it well.

Now, through your career as a judge and a prosecutor, you have established yourself as being tough on crime. I think that position is especially important to us today as we face the drug abuse problems and the wholesale criminal problems in this society, and especially the organized criminal problems across the country. The Bureau's role, of course, in all of these is essential and more.

At the same time, the Bureau is also an integral component in the enforcement of our laws in the areas of foreign counterintelligence, as I said, organized crime, white-collar crime, terrorism, general crimes, and, of course, civil rights. In addition, it stands as a central pillar of support for state and local law enforcement programs. So all of these things are crucial and critical to our Nation.

Now, this vast range of responsibility is overwhelming, to say the least, yet having reviewed your record, I am convinced that we have before us a person in you who will meet the challenge. You have been described as hard working, as fair, able to do a competent job under very difficult circumstances, having a knack for getting people to work for you who really achieve perhaps more than they thought they could. These are admirable and, I think, essential qualities for the position at hand.

During the tenure of Judge Webster, public confidence in the Bureau has greatly increased. Judge Webster established goals to improve the effectiveness of operations, and by and large he was, of course, able to attain his objectives. We wish him well at CIA and support him very strongly.

Through the course of these hearings, I will be interested in learning how you intend to propose reaching these goals and what additional changes and approaches that you would take in order to reach those goals. In addition, should we confirm Judge Sessions for this position, I would hope that an open dialogue will continue between you and members of this committee, and other members of Congress as is needed, because it is crucial to us.

I just want to say I have not received a single piece of negative correspondence with regard to your nomination, and I might add coverage by the media appears to be favorable to you. You have devoted your career to government service, and you have developed an exemplary record which I think speaks for itself.

I am pleased to support your nomination, and I look forward to having you serve. I look forward to serving with you and working with you in these important years ahead of us.

Thank you, Judge. Thanks for accepting.

The CHAIRMAN. Thank you, Senator.

Senator Metzenbaum.

OPENING STATEMENT OF SENATOR HOWARD M. METZENBAUM

Senator METZENBAUM. Thank you, Mr. Chairman.

Judge Sessions, the Federal Bureau of Investigation, as you well know, has had its high points and its low points. J. Edgar Hoover, history confirms, abused his power and used his position for political purposes as well as his own. Then during the Watergate scandal, the Bureau again failed the American public when it followed political orders to cease its investigation.

Since then, the FBI has generally gained the respect of the American people. William Webster helped to restore that respect. This history teaches us that the key to whether the FBI serves as a protector of our liberties and our rights rather than an oppressor is simple. Is the Director an individual of integrity and honor whose first loyalty is to equal justice and equal protection under the law for all Americans?

While the Director should be an individual of intelligence, a good administrator, and a law enforcement expert, those qualities, frankly, are not enough. If the American public is to retain confidence in the political system, the FBI Director must be first and foremost an individual dedicated to the law and to the rights and protections embodied in the Bill of Rights. He or she must be above partisan politics, partisan intrigue.

Judge Sessions, I asked my staff to check closely your record. They have reviewed your written opinions, and they have sought information from groups and individuals that might be expected to be critical of your appointment. I am pleased—in fact, delighted—to report that the nearly unanimous response from our inquiry was that you have served on the bench with distinction and have an outstanding reputation for fairness and integrity. I congratulate you on that record.

My hope and expectation is that if you are confirmed as FBI Director, which I believe will occur, you will maintain the same high standards in a setting that is much more political than your current position. Today, I plan to discuss that very question with you. I am interested in your plans for making certain that the FBI operates independently of political concerns. I am also interested in how you will ensure that the legitimate privacy rights of American citizens are protected during your tenure.

It is good to have you with us this morning.

The CHAIRMAN. Thank you, Senator.

Senator Grassley.

OPENING STATEMENT OF SENATOR CHARLES E. GRASSLEY

Senator GRASSLEY. Mr. Chairman, I think, first of all, all of us owe you a thanks as chairman of the committee for getting down to business so soon to consider this nomination. I want to thank you for moving very quickly on this.

I would also like to think we ought to take some time to commend Judge William Webster, who now is head of the CIA, for his leadership for so many years at the FBI. Prior to Judge Webster's appointment, which took place over 9 years ago, the FBI had experienced probably the most unstable period in its history. Judge Webster restored the pride, the confidence, and the effectiveness of the Bureau. It is once again the standard by which other law enforcement agencies are measured.

Judge Sessions obviously has a tough act to follow in Judge Webster. However, you, Judge Sessions, have already been a tough act during your distinguished career on the Federal bench.

I believe that Judge Sessions has been accurately described as tough but fair-minded. His conduct on the Federal bench is an indication of his personal integrity and his devotion to safeguarding constitutional rights. Consequently, I believe the Judge possesses the qualities needed to administer today's Federal Bureau of Investigation.

Judge Sessions is a judge's judge. I believe him to possess the character and resolve that are necessary to exercise the kind of leadership in law enforcement that we have once again come to expect from the FBI. So I, too, along with my colleagues on this committee, look forward to the Judge's responses to the committee's questions.

Once again, I thank you, Mr. Chairman, for moving quickly.

The CHAIRMAN. Thank you, Senator Grassley.

Senator DeConcini.

OPENING STATEMENT OF SENATOR DENNIS DeCONCINI

Senator DECONCINI. Mr. Chairman, Senator Leahy was here before me. I would be glad to yield if he cares to go.

Senator LEAHY. That is all right.

Senator DECONCINI. Mr. Chairman, thank you very much. I join Senator Grassley in the compliments of you for conducting these hearings the first day back on the job. I compliment the two Senators and colleagues here, taking the time to sit through all of these opening remarks, for your dedication to Judge Sessions. And, Judge Sessions, welcome. We are very pleased to have you here.

I, too, am impressed with your credentials. In light of your record, I do not feel so bad that you were selected over other qualified individuals who were on the list for that position. [Laughter.]

Seriously, I am pleased for the opportunity to address you, Judge Sessions, because I think your record is not only distinguished, but you have dealt very forcibly with the criminal elements; you have an experience second to none. Consequently, I think that you will have a tenure second to none as the FBI Director. I, too, join with Senator Metzenbaum and am very optimistic that you will be confirmed.

I do have questions, Judge Sessions, that I will ask you. I think it is most important to realize that the FBI Director is required to assume the leadership role in national security and foreign counterintelligence. I am concerned about the FBI's role in those areas. I will be posing some questions to you. If you are not familiar with them all, I will certainly understand. But I would like to have on the record your views of that position and what the Director will do.

The Intelligence Committee is most interested in a close relationship with the Director of the FBI, as you probably know, and some of those questions will deal with that area.

Likewise, I read in the Washington Times an interview by George Archibald most recently which is most impressive if it is correct—and I am sure it is because I know Mr. Archibald—about

your commitment to doing something and continuing the fight on organized crime. Nothing is more important in this Senator's judgment than to have an aggressive FBI Director and the Bureau and the DEA moving on organized crime, which is a $100 billion business paying no taxes and sinking this country in a very slow but meticulous manner.

Once again, Judge, thank you for your forthrightness today and your time and your willingness to take this position.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Specter.

OPENING STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Thank you, Mr. Chairman.

Judge Sessions, I join in the welcome for you here. I am delighted to see that the President has appointed a man with your experience. Your opinions on the bench balance. You have a wealth of experience as a practicing lawyer, in the Justice Department, as U.S. attorney, and as a Federal judge. You will be undertaking a really very tough job with problems of violent crime and drugs and organized crime, international terrorism and domestic terrorism, and I agree with what Senator DeConcini has said about the need for leadership which should come from the Director of the Federal Bureau of Investigation.

There are very tough issues which we confront: allocation of resources to the fight against violent crime, which I believe have been insufficient; problems of prisons which are growing because of mandatory sentences on drugs and because of other factors of the increase in violent crime; and soon we are going to have judicial guidelines which will make that problem even more acute.

Perhaps the job of the Director of the FBI on civil rights is among the top jobs, and accompanying that is the job of making sure that there is no political influence in what the FBI's role is.

In that respect, I think it important to focus on the fact that your 10-year appointment places you beyond any administration, really beyond any two administrations. And when we had the confirmation hearings of Judge Webster before the Intelligence Committee recently, Judge Webster focused on the fact as he saw it of the importance to avoid influence of any kind, even White House influence.

During the course of the questioning session, this will be an opportunity not only to bring out your qualifications, which is the fundamental purpose of these hearings, but also to explore the experiences of the FBI and to retrace perhaps some of the errors which have been made with a view to your focus of attention and to improving the quality of the FBI.

I welcome you to these hearings. I, too, am glad you were willing to accept this tough assignment, and I look forward to the confirmation process.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Leahy.

OPENING STATEMENT OF SENATOR PATRICK J. LEAHY

Senator LEAHY. Thank you, Mr. Chairman. I also compliment you on starting the Senate back to work a lot faster than we normally do after a recess.

Judge Sessions, I do not know if it is because of the upcoming visit of the Pope, but this is beginning to sound more like a canonization hearing than a confirmation hearing. But I also want to join in congratulating you on your nomination to be the new Director of the Federal Bureau of Investigation. I think you ought to take a lot of pride in the fact that the President has such enormous confidence in you. This is one of those major appointments that goes beyond the President's own term and goes into the next two presidential terms.

During the 4 months we were waiting to see who he would nominate, like everybody else here I gave a lot of thought to the kind of traits we would want in a new FBI Director. Whoever that man or woman might be is going to have a hard act to follow, as you know and everybody has pointed out.

I think 9 years ago when Judge Webster took over the helm of the FBI, the credibility had been badly shaken. I think President Carter had the chore then of putting somebody in that could restore confidence, and I think that Judge Webster earned a reputation for that, for integrity and leadership but toughness, and at the same time sensitivity to the demands of our Constitution. It requires all of those. It is a high standard. It is a standard you are going to be measured against. You will set your own standards even beyond that, and I think that is what every FBI Director has to do.

I do not think there is any position that really stands out significantly more critical to the proper functioning of our government than the position of the FBI Director. The Director's most difficult task is to protect America's democratic institutions from those who find accountability and oversight a nuisance or an inconvenience. You are going to have to walk that fine line between responding to the Nation's political leaders and pursuing the department's very independent law enforcement mission. You have to have a firm and measured step to maintain that balance.

You may find that some of those sworn to uphold the law are encouraging illegal activities. You may discover that some public officials ordered to pursue justice are obstructing justice or have a funny notion of what justice means. You may learn that some law enforcement officers expected to investigate crime stand by as evidence of criminal activity is destroyed. You may even see some of those who are supposed to protect national security use national security as a shield to protect government misconduct. There has certainly been ample precedent for all of those things.

An independent FBI Director is our first line of defense against such abuses of our system. If you are confirmed, as I think all of us feel you will be, I expect you to stop in its tracks any criminal assault on the proper functioning of our political institutions under any administration or in response to any activity of anybody no matter what their political affiliation.

Of course, that is only a part of your job description. You have got to set priorities in the government's efforts to combat crime. You will devise the battle plan to be used against drug traffickers, white-collar criminals, and those involved in organized crime. Let me tell you, and I am sure your briefings have already pointed this out to you: You have got an increasing responsibility in the worldwide fight against terrorism. What we saw as a threat of terrorism inside our borders 10 years ago has grown, and you are the one that is going to have to lead our fight against that. If there is any one thing that could affect our whole sense of what our responsibilities are under the Constitution, it would be the activities of terrorists inside our borders—the kind of things that we see in Lebanon and other places, but within inside our borders. But that, stopping them or reacting against them if they do get here, is going to require you to have the wisdom of a Solomon in protecting our democratic traditions and our constitutional rights in such a fight, more than any other thing you might do.

Though there are a number of other areas, and I will put that in the record, I certainly want you to put a practical rein over the Bureau's use of the increasingly sophisticated electronic surveillance equipment and computer technologies that threaten personal privacy and weaken fourth amendment protections. Make sure that we go into the 21st century, but make sure that the 21st century does not become 1984.

So you have got a better relationship between the Bureau and the Congress than it was when your predecessor came in here, and I think that is good for the FBI. It is good for the Congress; most importantly, it is good for the United States of America.

Thank you.

[The statement of Senator Leahy follows:]

STATEMENT OF SENATOR PATRICK LEAHY
ON THE NOMINATION OF WILLIAM SESSIONS
TO BE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

JUDGE SESSIONS, LET ME JOIN MY COLLEAGUES IN CONGRATULATING YOU ON YOUR NOMINATION TO BE THE NEW DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION. YOU SHOULD TAKE GREAT PRIDE IN THE FACT THAT THE PRESIDENT HAS SUCH ENORMOUS CONFIDENCE IN YOU.

DURING THE FOUR MONTHS THAT WE WAITED FOR YOUR NOMINATION, I GAVE A GREAT DEAL OF THOUGHT TO THE TRAITS THAT I WOULD LOOK FOR IN THE NEXT FBI DIRECTOR. IT WAS CLEAR THAT THE MAN OR WOMAN WOULD HAVE A HARD ACT TO FOLLOW. NINE YEARS AGO JUDGE WEBSTER TOOK THE HELM OF AN AGENCY WHOSE CREDIBILITY HAD BEEN SHAKEN. IN RESTORING PUBLIC CONFIDENCE IN THE BUREAU, PRESIDENT CARTER'S NOMINEE EARNED A REMARKABLE REPUTATION FOR INTEGRITY, LEADERSHIP, TOUGHNESS, AND, AT THE SAME TIME, SENSITIVITY TO THE DEMANDS OF OUR CONSTITUTION. JUDGE WEBSTER HAS SET A NEW STANDARD FOR THIS CRUCIAL POSITION -- A STANDARD AGAINST WHICH YOU WILL BE MEASURED AND FROM WHICH WE CANNOT RETREAT.

FEW POSITIONS ARE MORE CRITICAL TO THE PROPER FUNCTIONING OF OUR SYSTEM OF GOVERNMENT THAN THE POST OF THE FBI DIRECTOR. ONE OF THE DIRECTOR'S MOST DIFFICULT TASKS IS TO PROTECT AMERICA'S DEMOCRATIC INSTITUTIONS FROM THOSE WHO FIND ACCOUNTABILITY AND OVERSIGHT A NUISANCE OR AN INCONVENIENCE. DURING THE NEXT TEN YEARS, PERHAPS FOR AS MANY AS THREE DIFFERENT ADMINISTRATIONS, THE DIRECTOR WILL WALK THE FINE LINE BETWEEN RESPONDING TO THE NATION'S POLITICAL LEADERS AND PURSUING THE BUREAU'S INDEPENDENT LAW ENFORCEMENT MISSION.

RECENT HISTORY SHOWS THAT A DIRECTOR MUST HAVE A FIRM AND MEASURED STEP IF HE IS TO MAINTAIN HIS BALANCE. HE MAY FIND THAT SOME OF THOSE SWORN TO UPHOLD THE LAW ARE ENCOURAGING ILLEGAL ACTIVITIES. HE MAY DISCOVER THAT SOME PUBLIC OFFICIALS

ORDERED TO PURSUE JUSTICE ARE OBSTRUCTING JUSTICE, OR HAVE A FUNNY NOTION OF JUST WHAT "JUSTICE" MEANS. HE MAY LEARN THAT SOME LAW ENFORCEMENT OFFICERS EXPECTED TO INVESTIGATE CRIME STAND BY AS EVIDENCE OF CRIMINAL ACTIVITY IS DESTROYED. AND HE MAY EVEN SEE SOME OF THOSE WHO ARE SUPPOSED TO PROTECT NATIONAL SECURITY USING NATIONAL SECURITY AS A SHIELD TO PROTECT GOVERNMENT MISCONDUCT.

MANY OF US BELIEVE THAT AN INDEPENDENT FBI DIRECTOR IS AMONG THE FIRST LINES OF DEFENSE AGAINST SUCH ABUSES OF OUR DEMOCRATIC SYSTEM. JUDGE SESSIONS, IF AS I SUSPECT, YOU ARE CONFIRMED, I EXPECT YOU TO STOP IN ITS TRACKS ANY CRIMINAL ASSAULT ON THE PROPER FUNCTIONING OF OUR POLITICAL INSTITUTIONS.

THAT IS, OF COURSE, ONLY A PART OF THE DIRECTOR'S JOB DESCRIPTION. IF YOU ARE CONFIRMED, YOU WILL BE RESPONSIBLE FOR SETTING PRIORITIES IN THE FEDERAL GOVERNMENT'S EFFORTS TO COMBAT CRIME. YOU WILL DEVISE THE BATTLE PLAN TO BE USED AGAINST DRUG TRAFFICKERS, WHITE-COLLAR CRIMINALS, AND THOSE ENGAGED IN ORGANIZED CRIME. IT WILL BE UP TO YOU TO MAINTAIN THE FBI'S LEADERSHIP POSITION IN THE WORLDWIDE FIGHT AGAINST TERRORISM.

AT THE SAME TIME, YOU WILL BE EXPECTED TO PUT A PRACTICAL REIN OVER THE BUREAU'S USE OF THE INCREASINGLY SOPHISTICATED ELECTRONIC SURVEILLANCE EQUIPMENT AND COMPUTER TECHNOLOGIES THAT THREATEN PERSONAL PRIVACY AND WEAKEN FOURTH AMENDMENT PROTECTIONS. WE EXPECT THE NEXT DIRECTOR TO MAKE CLEAR TO THE AGENTS IN THE FIELD THAT THE CAPABILITY FOR INTRUSIVE INVESTIGATIVE AND RECORD-KEEPING TECHNOLOGIES DOES NOT BY ITSELF JUSTIFY THEIR USE.

JUDGE SESSIONS, YOU MAY HAVE HEARD THAT THE JUDICIARY COMMITTEE WILL BE CONSIDERING ANOTHER MAJOR NOMINATION THIS MONTH. DON'T FEEL NEGLECTED.

WE APPRECIATE THE SIGNIFICANCE OF THE OFFICE TO WHICH YOU HAVE BEEN NOMINATED. WE ARE UNDERTAKING OUR CONSTITUTIONAL DUTY OF ADVICE AND CONSENT IN THIS MATTER WITH GREAT SERIOUSNESS AND CARE.

I WISH YOU GOOD LUCK DURING THIS PART OF THE CONFIRMATION PROCESS. AND IF YOU ARE CONFIRMED BY THE SENATE, I ENCOURAGE YOU TO COME BACK REGULARLY. WE ON THE COMMITTEE WANT TO KNOW HOW WE CAN HELP YOU SUCCESSFULLY PERFORM THE MONUMENTAL CHALLENGES THAT LIE AHEAD.

THE RELATIONSHIP BETWEEN THE BUREAU AND THE CONGRESS IS BETTER TODAY THAN IT HAS BEEN FOR YEARS. MANY OF US ARE GRATEFUL FOR HOW MUCH WE CAN ACCOMPLISH WHEN THE CONGRESS AND FBI WORK TOGETHER. THIS SENATOR LOOKS FORWARD TO CONTINUING A VIGOROUS COLLABORATION WITH THE NEXT FBI DIRECTOR.

The CHAIRMAN. Thank you, Senator.
Senator Heflin.

OPENING STATEMENT OF SENATOR HOWELL HEFLIN

Senator HEFLIN. Mr. Chairman, I will ask that my written statement be made a part of the record. Most everything that I have prepared has already been said, and I do not want to take the time from the hearing to repeat what has been previously said.

I want to say to you, Judge Sessions, that I think you will be confirmed, but I think that in the future you need to return to your home State and to the South, because that is the best inoculation against that deadly disease known as Potomac fever.

[The statement of Senators Heflin and Simon follow:]

SPEECH BY SENATOR HOWELL HEFLIN

ON THE NOMINATION OF WILLIAM STEELE SESSIONS

TO BE THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

JUDGE SESSIONS, I WOULD LIKE TO WELCOME YOU AND YOUR FAMILY TO TODAY'S HEARING.

AS I AM SURE YOU ARE AWARE JUDGE SESSIONS, THE FEDERAL BUREAU OF INVESTIGATION, WHICH YOU HAVE BEEN NOMINATED TO HEAD, PERFORMS A VITAL ROLE IN OUR NATION AND IS ONE OF THE MOST IMPORTANT INSTITUTIONS IN OUR FEDERAL GOVERNMENT. SPECIFICALLY, THE FBI HAS PLAYED AND WILL CONTINUE TO PLAY A MAJOR ROLE IN COMBATING THE THREAT WHICH ORGANIZED CRIME POSES TO OUR SOCIETY. THE FBI HAS A MAJOR ROLE IN INVESTIGATING CASES OF WHITE COLLAR CRIME AND PUBLIC CORRUPTION - WHICH ARE OCCURING WITH EVER INCREASING VOLUME TODAY. FURTHER, WITH THE THREAT AND INSTANCES OF DOMESTIC AND INTERNATIONAL TERRORISM CONSTANTLY GROWING, THE FBI MUST TAKE THE LEAD IN PROTECTING AMERICANS FROM THIS MENANCE. FINALLY, AND I BELIEVE MOST IMPORTANTLY, THE FBI MUST CONTINUE TO FIGHT IN OUR NATION'S WAR AGAINST DRUGS.

JUDGE SESSION, AS DIRECTOR OF THE FBI YOU WILL BE RESPONSIBLE FOR A DIVISION OF THE FEDERAL GOVERNMENT WHICH WILL HAVE A BUDGET FOR FISCAL YEAR 1987 OF APPROXIMATELY 1.3 BILLION DOLLARS. MORE IMPORTANTLY HOWEVER, YOU WILL BE RESPONSIBLE FOR THE MORE THAN 21,000 PEOPLE WHO ARE NOW EMPLOYED BY THE BUREAU. IT HAS BEEN SUGGESTED THAT YOU HAVE A KNACK FOR GETTING THE PEOPLE WHO WORK FOR YOU TO ACHIEVE PERHAPS MORE THAN THEY THOUGHT THEY COULD. I HOPE YOU WILL FIND THIS TO BE TRUE AT THE FBI. IN ADDITION TO THE FBI'S HEADQUARTERS HERE IN WASHINGTON, D.C., THE FBI HAS 59 FIELD OFFICES AROUND THE COUNTRY WHICH ARE CRITICAL TO THE BUREAU CARRYING OUT ITS NATIONWIDE MANDATE. THE DISTRICT FOR WHICH YOU SERVED AS CHIEF JUDGE IS ONE OF THE LARGEST IN THE UNITED STATES AND IT HAS ONE OF THE HIGHEST, IF NOT THE HIGHEST CASE LOAD IN THE NATION. THE ADMINISTRATIVE SKILLS WHICH YOU HAVE LEARNED AS CHIEF JUDGE WILL SERVE YOU WELL, AS YOU TAKE CONTROL OVER ONE OF THE

LARGEST AND CERTAINLY THE MOST PRESTIGIOUS LAW ENFORCEMENT AGENCY IN OUR COUNTRY.

YOUR TERM AS DIRECTOR MAY BE AS LONG AS TEN YEARS. DURING YOUR TENURE, YOU WILL PLAY AN IMPORTANT ROLE IN DETERMINING HOW THE BUREAU'S RESOURCES WILL BE ALLOCATED AND WHAT THE BUREAU'S PRIMARY GOALS WILL BE. I BELIEVE THAT FORMER DIRECTOR WEBSTER'S TENURE AS HEAD OF THE FBI WAS ONE WHICH FUTURE DIRECTORS SHOULD TRY TO EMULATE. JUDGE WEBSTER HAS STRENGTHENED THE BUREAU, WORKED WELL WITH CONGRESS, AND HAS LEFT A LEGACY OF EXCELLENCE WHICH WILL BE HARD TO MATCH. BUT, IN YOU, JUDGE SESSIONS, I BELIEVE THAT THE PRESIDENT HAS FOUND A FITTING SUCCESSOR.

I FEEL THAT THE PRESIDENT HAS CHOSEN WELL AND WISELY IN SELECTING YOU TO HEAD THE FBI. YOU ARE HIGHLY RESPECTED BY JUDGES, LAWYERS AND LAW ENFORCEMENT OFFICIALS. YOUR BACKGROUND MAKES YOU WELL PREPARED TO LEAD THE BUREAU. YOUR YEARS AS A PRACTICING ATTORNEY, IN PRIVATE PRACTICE, IN THE JUSTICE DEPARTMENT, AND AS A UNITED STATES ATTORNEY HAVE GIVEN YOU A KEEN UNDERSTANDING OF THE SERIOUS PROBLEMS OUR NATION FACES IN COMBATING CRIME. FURTHER, YOUR SERVICE AS A UNITED STATES DISTRICT COURT JUDGE HAS GIVEN YOU A UNIQUE VIEW OF THE IMPORTANCE OF FUNDAMENTAL JUSTICE IN OUR SOCIETY. I BELIEVE YOUR RECORD ON THE DISTRICT COURT CONFIRMS THE BELIEF HELD BY MOST AMERICANS - THAT WHILE IT IS IMPORTANT THAT WE ZEALOUSLY PURSUE CRIMINALS - THE RULE OF LAW MUST ALWAYS GOVERN.

DURING YOUR TENURE AS DIRECTOR OF THE FBI, YOU WILL BE FACED WITH MANY CHALLENGES. THE FBI, AS THE PRINCIPLE INVESTIGATIVE ARM OF THE DEPARTMENT OF JUSTICE, WILL PLAY A CRITICAL ROLE IN OUR NATION'S WAR AGAINST CRIME. OUR NATION'S FIGHT AGAINST ORGANIZED CRIME, INTERNATIONAL TERRORISM, PUBLIC CORRUPTION, WHITE COLLAR CRIME, AND ILLEGAL DRUGS IS FAR FROM OVER - MUCH REMAINS TO BE DONE.

IN MY HOME STATE OF ALABAMA, WE ARE STRUGGLING, AS ARE MANY STATES IN THE REGION, TO THE STOP FLOW OF ILLEGAL DRUGS INTO OUR BORDERS. THIS IS A FIGHT WHICH THE STATES CANNOT WIN ON THEIR OWN. STATE AND LOCAL LAW ENFORCEMENT AGENCIES THROUGHOUT THE NATION HAVE WORKED WELL WITH THE FBI IN THE PAST AND I URGE YOU TO CONTINUE TO IMPROVE THIS RELATIONSHIP.

LASTLY, JUDGE SESSIONS YOU HAVE BEEN DESCRIBED AS A MAN OF STRENGTH, INTELLECT AND INTEGRITY - YOU WILL NEED ALL THREE OF THESE QUALIITIES DURING YOUR TENURE AS DIRECTOR OF THE FBI. WE ARE ALL AWARE THAT THE LIFETIME JOB WHICH YOU ARE RELINQUISHING TO HEAD THE FBI IS ONE WHICH MANY IN THE LEGAL PROFESSION STRIVE FOR. I THANK YOU FOR YOUR EXAMPLE OF SERVICE TO OUR COUNTRY. I WISH YOU WELL IN YOUR NEW JOB AND LOOK FORWARD TO WORKING WITH YOU IN THE FUTURE. THANK YOU MR. CHAIRMAN.

STATEMENT OF SENATOR PAUL SIMON

ON THE CONFIRMATION OF WILLIAM STEELE SESSIONS

AS DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATIONS

September 9, 1987

MR. CHAIRMAN. I am pleased that you decided to hold early hearings immediately following the August recess for this Committee to consider the nomination of Judge William Steele Sessions to be the next Director of the Federal Bureau of Investigations.

The Bureau is the cornerstone of federal law enforcement in this country and plays a unique role in coordinating local and state enforcement activities. It has been without a Director for some five months so this Committee must act expeditously to fill that vacancy.

As my colleagues on both sides of the aisle have done before me, I must commend the nominee who sits in front of us today. Judge Sessions like Director William Webster nine years ago, comes to the FBI from the judicial branch. Judge Sessions' record indicates that he is a fair man when it comes to the judicial task of weighing competing interests and bringing parties into compliance with the laws.

His emphasis on attorney competence and high courtroom standards evenly applied to all will stand him in good stead as the head of the FBI. He must diligently demand the most aggressive enforcement of the law and investigation into law-breaking which takes fully into account the civil liberties and privacy guarantees of the Constitution for the individual. This task of balancing legitimate law enforcement needs with the right of privacy and other constitutional protections takes on even greater importance as advanced technology enables the increased tracking and location of virtually every American.

Finally, the new FBI Director must be forward looking in another way. In the ten year term of the next Director, over 50% of the current special agent force is expected to retire. Aggressive recruitment to increase the number and deployment around the Agency of women and minorities will be an important task requiring the leadership of the new Director.

I look forward to hearing Judge Sessions' views on these and other subjects. I believe he is very much up to the job ahead of him.

Thank you, Mr. Chairman.

The CHAIRMAN. To further help inoculate you, Judge, let me call on Senator Bentsen of Texas for his statement, and then to our colleague, Senator Gramm.

STATEMENT OF HON. LLOYD BENTSEN, A SENATOR FROM THE STATE OF TEXAS

Senator BENTSEN. Thank you very much, Mr. Chairman. I am delighted to be able to join my distinguished colleague, Senator Gramm, in introducing Judge William Sessions to this very distinguished committee.

I think all of us appreciate the importance of the position to which he has been nominated. I think in this instance that the President has chosen wisely. He has made an excellent choice in Judge William Sessions. As has been noted by the member of this committee, Senator Kennedy, the President is capable of sparking considerable controversy at times with some of his nominations and to the justice system of our country. But as also has been noted by Senator Hatch, there has been not one word of criticism concerning this nominee. And that is no surprise, because this is a man of integrity, who has approached the issues in a most even-handed manner, is a man who has great experience, is a man who headed up the Western District of Texas which is one of the largest districts, geographically, and one of the fastest-growing, by population. But did it in such an efficient manner that he was recognized by his peers for doing so.

That is an important element, when you are talking about heading an agency as large as this one, and the great amount of the taxpayers' money that is involved.

I talked about him being a "law and order" judge, and that he is, and we saw that exemplified in what he did to drug peddlers and drug runners back in Texas. But the point they have not made so much of is his even-handed administration of justice.

He is a man of compassion, and he is a man of understanding. I do hope that we move ahead with this nomination here and approve it early, and that we get an early confirmation by the U.S. Senate, because this position of leadership has been vacant too long in the FBI. In this instance I think we have an exemplary man to fill that position.

I might also say to you, Judge Sessions, I was just delighted, as I listened to these statements from the committee. I do hope you have a videotape for your family because, as the years go by—and I anticipate you will be confirmed—and you head up the FBI, I dare guess that this will be a high point in the unanimity of support that you receive from the U.S. Congress.

The CHAIRMAN. I might add, Judge, it is a little bit like what happens the day after a Senator is elected. Everyone was for him. By the time the term is over, it changes.

Senator Gramm.

STATEMENT OF HON. PHIL GRAMM, A SENATOR FROM THE STATE OF TEXAS

Senator GRAMM. Thank you, Mr. Chairman. I am happy to join my senior colleague, Senator Bentsen, here, in introducing to you,

obviously, a person who needs no introduction since it is a real test of a fellow's command of superlatives, to find anything new to say.

I will say that we, in Texas, are proud of Judge Sessions. We are proud of his record of leadership, whether it was in the Criminal Division of the Justice Department, whether it was as a U.S. attorney, whether it was a judge in the western district, and, finally, chief judge. All of his actions, all of the positions he has held, have been positions held and action carried out that reflected on the basic qualities of law and order, a basic quality of fairness.

I think in Judge Sessions we have someone who understands the old-fashioned concept of being fair, of right and wrong. He has been compared to the old-fashioned Western marshal with a shining star on his chest. It is a little dramatic, but in my part of the country, that is about as high a praise as you can have for somebody, to compare him to the badge-bearing, gun-toting old marshal.

I think that we are going to find that his keen sense of right and wrong, his old-fashioned concept of fairness will serve him well in this very high position.

I predict that Judge Sessions will be long remembered for his service here. I am happy to have an opportunity to introduce him to you, and commend him to you. I look forward to his confirmation, and I look forward to working with him, as I am sure each of you do.

The CHAIRMAN. I thank my colleagues, and I know they have very busy schedules. I appreciate them taking this much time, and, as they leave, I would like to introduce two others of our colleagues from the other body, from the House, and I understand they may have statements.

Congressman Bustamante and Congressman Smith, both, as I am sure—I have never met any Texan who is not proud—both proud Texans, and, I understand both are from San Antonio.

Congressman Bustamante, would you make your statement, first, and then Congressman Smith, and I appreciate your tolerance in waiting so long.

STATEMENT OF HON. ALBERT GARZA BUSTAMANTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BUSTAMANTE. Thank you, Mr. Chairman. Mr. Chairman, and members of the committee, I thank you for inviting me to participate at this initial confirmation hearing of Federal Judge William Steele Sessions.

I am pleased by the selection of Judge Sessions as Director of the Federal Bureau of Investigation. His predecessor, William Webster, did an outstanding job as FBI Director.

I know Judge Bill Sessions will bring those same high-caliber credentials to the FBI. As the former County Judge of Bexar County, Texas, I had the opportunity to work with Judge Sessions on some important projects.

This included jail standards and the judicial budget for Bexar County. While working on these projects, I came to appreciate the insightful way in which Judge Sessions performed his work.

He is known in our community as a competent and effective jurist. Judge Sessions has earned a reputation, as you have heard

time and again, as a tough but fair-minded prosecutor, as the President also has noted himself.

Judge Sessions' firm but fair approach to the law served him well as Chief Judge of the Western District of Texas. He has devoted his life to enforcing our Nation's laws. That is a task which he has successfully carried out in our community, and, for that, we are most grateful.

Judge Sessions is no stranger to Washington. He served as Chief of the Government Operations Section of the Criminal Division of the U.S. Department of Justice.

His return to Washington will help provide the leadership our country requires in its public officials. I have profited tremendously, from the correspondence Judge Sessions and I have shared over the past 3 years.

His advice has helped me to remain informed about law enforcement developments in the 23rd Congressional District of Texas which I represent. He has been a particularly useful adviser on recent Federal efforts to stem the flow of drugs in Southwest Texas.

I look forward to continuing our friendship and working relationship in his new capacity as FBI Director.

Mr. Chairman, I wholeheartedly support the nomination of Judge William Steele Sessions as Director of the Federal Bureau of Investigation.

I firmly believe Judge Sessions is the right man for the job, and I offer him my sincere congratulations and support. Thank you

The CHAIRMAN. Thank you, Congressman, and thank you for taking the time to be here. Congressman Smith, welcome.

STATEMENT OF HON. LAMAR SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. SMITH. Mr. Chairman, on behalf of my fellow citizens in San Antonio and the 21st Congressional District of Texas, it is my great personal pleasure and high professional honor to appear before this committee today.

I am proud to help introduce you to the Hon. William S. Sessions, now the Chief Federal District Judge for the vast Western District of Texas.

Until this point, the professional purview of Judge Sessions has been a 90,000 square mile expanse that includes El Paso, Pecos, Midland, Odessa, Waco, San Antonio, the State capital of Austin, the oil fields of the Permian Basin, the ranches of the rolling Hill Country, and the peaks of the Big Bend.

As both a U.S. attorney and U.S. district court judge, he has distinguished himself, our region and our country in ways I am certain will become amply clear in the testimony presented during these hearings.

After hearing from witnesses far more expert than I, I am certain you will agree that Judge Sessions is ideally qualified for the position for which he has been nominated by the President.

But allow me to tell you a little bit about what I know of Bill Sessions as a neighbor, a constituent, and a friend. There is no doubt that he is a man of high character, unquestionable integrity

and unwavering fairness. But, even beyond his possession of that rare combination of qualities, there is another trait equally as important.

It is a complete lack of the need for self-aggrandizement, or self-promotion, something that can only come from an inner contentment and sense of purpose.

Never was this more clear to me than 6 months ago, when I called the Judge and asked him if he would mind my recommending him to President Reagan and Attorney General Meese for the FBI Directorship.

While he said that would be flattering and that the job would be an enormous honor and challenge, he made it quite clear he would neither promote the idea among his colleagues nor even make telephone calls or write letters on his own behalf.

Fortunately, the President wished to place his confidence in this man of genuine humility and dedication.

As an attorney and public official in San Antonio this past decade, I have also known William Sessions as a prosecutor and a jurist with a seriousness of purpose, a keen and scholarly understanding of the law, and an able administrative style.

He has revealed himself as a "law and order" jurist in the best sense of the term, because he has consistently been able to combine firmness with fairness, while balancing the need for a just and safe society with the need to respect the rights of all citizens in his court, whether they are plaintiffs, defendants, or criminal victims.

Judge Sessions has made manifest the principle that our Government is one of laws, not of people, and so all cases in his court have been treated with equal care, whether they have involved charges of skipping jury duty, or of committing the first assassination of a Federal judge in this century.

In addition, his prosecutorial and judicial careers have allowed Judge Sessions to become as well-versed as anyone in the most pressing types of cases that will face the Bureau and all domestic law-enforcement agencies in the coming decade.

As a Deputy Assistant Attorney General, and Chief of the Government Operations Division of the Justice Department from 1969 to 1971, he led dozens of prosecutions of election fraud, bombings of Secret Service offices, draft evasion, and pornography distribution.

As U.S. attorney in west Texas the following 3 years, he successfully prosecuted income-tax evasion and perjury charges against George Parr, the legendary "Duke of Duval County" who ran the corrupt patron system in much of south Texas.

Both as a prosecutor and as a judge these past 13 years, he has been relentless in his pursuit of those who smuggle drugs, and diligent in his pursuit of those who smuggle aliens.

All this combined makes Judge Sessions, in my opinion, the ideal person to run the FBI, which is why I wrote to recommend him to the President and the Attorney General in March, as soon as Judge Webster was nominated to direct the Central Intelligence Agency.

I am grateful that the committee chose to conduct these hearings as its first order of business following the summer recess, because I believe, emphatically, that our top domestic law-enforcement agency needs a new chief as soon as possible.

While I applaud the President and the Attorney General for taking the time to find someone so eminently qualified as Judge Sessions, now that he has been nominated, I am certain you will find no impediment to his speedy and essential confirmation.

At a time when both bodies of this historic 100th Congress, and all three branches of our Federal Government, are deeply divided over so many of the major issues we must address, it is a welcome relief that we all appear to agree on the urgency of putting our trust in William Steele Sessions to lead the Federal Bureau of Investigation.

Though we may need all this autumn to arrive at a consensus on our next Federal budget, our next Justice of the Supreme Court, and our next moves on trade, Central America, and arms control, for today we can be thankful that a groundswell of consensus clearly exists on who should hold the reins of the FBI.

I am thankful, and proud, to have been able to play a part in this historic confirmation process, and am grateful to you, Mr. Chairman, for inviting me to come across Capitol Hill to see it begin. Thank you.

The CHAIRMAN. Thank you for coming. I thank both of you. You are welcome to stay, obviously, but I understand you have other duties. Thank you very, very much for taking the time to come.

Judge, while you are on your feet, how about staying on your feet and we will swear you in, if we may.

Judge, do you swear the testimony you will give today in response to questions will be the whole truth and nothing but the truth, so help you God?

Judge SESSIONS. I do so swear.

The CHAIRMAN. Please be seated.

TESTIMONY OF HON. WILLIAM STEELE SESSIONS, NOMINATED TO BE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

The CHAIRMAN. Would you, before we begin, introduce your family to all of us. Many of us have met your family who are here today, but would you do that now.

Judge SESSIONS. Thank you, Senator. There are two here. My wife, Alice, is here, right behind me on my right.

The CHAIRMAN. Welcome, Mrs. Sessions.

Judge SESSIONS. And my daughter, Sarah, is also here.

The CHAIRMAN. Sarah, welcome.

Judge SESSIONS. I have three sons, two of whom are trial lawyers in San Antonio. I started to say Washington. Two of them are trial lawyers in San Antonio, one of whom is with Southwestern Bell in a representative capacity up in Piscataway with the Bell Research Center. And those are my family. I am delighted that they are here, and grateful that they are here, and I appreciate being allowed to introduce them.

The CHAIRMAN. I am delighted they came, and also, I should note a very important person in the audience, and the fact that he is here I hope bodes cooperation. Mr. Jack Lawn and his wife are here. He is the Administrator of the DEA. Welcome, Jack. I am sure he is here in support, not to check on you, but we will find that out.

Judge SESSIONS. I am delighted he is here. You may know that Jack, and Mrs. Lawn, are long-time friends. He was significantly involved in Texas as the SAC in the FBI in San Antonio.

The CHAIRMAN. Do you have an opening statement, Judge?

Judge SESSIONS. I have none, sir, except to say that I am here. I am pleased to be before the panel, and intend to answer as fully as I can, and as completely as I can, any questions that you may have.

You should know that I believe you are entitled to examine in any area that you want to examine, and I have listened carefully to the opening statements, and I am grateful for them because it shows me that we all have the same genuine concerns about the leadership of the Federal Bureau of Investigation, and I am grateful for that, sir.

The CHAIRMAN. Judge, welcome, and let me begin by suggesting we keep to the 10-minute rule, if someone will keep the time, and we will try to move as expeditiously as possible. There are a number of questions.

Let me begin with the first question, Judge, and it is not asked—I am not attempting to be facetious. Why is it that you would accept a position that has a maximum tenure of 10 years, whereas the position you are giving up is of life-time tenure, and all for a lower-paying job?

You will make less money as the FBI Director than you would have, had you stayed on as a Federal Judge for life.

Can you tell me why you have chosen to make this switch.

Judge SESSIONS. Fortunately, Senator, I was blessed with some examples that took place long before I was being considered. Judge Frank Johnson, many years ago, was offered the position, and in fact intended, as I understood, to take the position, and because of his health found it impossible to do that.

But he was willing, at that time, to leave the Federal bench after a long and illustrious service, and to take on the challenge and the responsibility. So that told me that he recognized the importance of the directorship of the FBI.

When he failed in his health and could not do that, of course he was followed by Judge William H. Webster, and there could be no more immediate reason to know the price that is to be paid by a Federal Judge leaving the bench than to check on the service of Judge Webster.

He did it, and he obviously did it willingly, and he said to me at the time that we first met, after I was being considered, that he found that it was the most challenging period of his life.

I said earlier, and I will repeat again, it is very clear to me that leaving the Federal bench is a serious proposition, but the challenge to lead the Federal Bureau, and the honor of doing that, Senator, if I am confirmed, would be the highest honor I could possibly achieve in serving this country.

I was reminded in the opening statements—and I do not mean to belabor it—I was reminded why it was I came to Washington, originally. It was in 1969 that Will Wilson gave me a challenge that was carried by some of you over a long period of time, very directly, and that is to be involved in the fight against organized crime.

I did not know at that time I would become Chief of the Government Operations Section. I only knew that I was coming to the De-

partment of Justice on the representations of Mr. Wilson, that the Criminal Division was going to pursue organized crime, and I thought that was a worthy objective, and I continue to think that.

I am very much a person who believes in law and order, and governing ourselves under law is absolutely essential. The inroads that have been made by organized crime and terrorism, and those areas that you know so well, are fully worthy of my commitment.

And although I find some personal discomfiture in knowing that I will go back to practicing law to make a living after I leave the FBI——

The CHAIRMAN. Not necessarily.

Judge SESSIONS [continuing]. But I will be rewarded more than I can ever contribute to the Bureau, and I am grateful for the opportunity to serve.

The CHAIRMAN. Thank you for your answer. Judge, you have obviously discerned from the opening statements, that on both sides of the aisle represented here, one of the most important issues, if not the single most important issue that we must address in this process, is whether or not you are committed to an independent FBI, or whether you will be able to insulate the FBI from improper political influences.

And I say this not as a knock on this administration. it has occurred in every administration, and, who knows, maybe you will be the FBI Director under someone up here who may be President next. [Laughter.]

Paul Simon is not here, but if he were, he would say that about me. But all kidding aside, this is not a Republican appointment or a Democratic appointment.

You are going to serve, God willing, for at least through one more President, and, who knows, maybe two. So the question is of particular importance in the wake of past history, and in particular, the Iran-contra affair.

Before he accepted the nomination, 9 years ago, Judge Webster received assurances from the President and the Attorney General, that the Bureau would be independent in the conduct of its criminal and domestic security investigations.

I ask you, Judge, did you seek similar assurances, and, if so, what can you tell us about the answers you received?

Judge SESSIONS. First of all, I did not seek assurances from the President of the United States, but the first item of my conversations with the Attorney General directly related to what you have discussed with me, Senator.

I was well aware, because I have worked in the Department of Justice before, that the Bureau is an agency of the Department of Justice, and in fact the Director of the Federal Bureau of Investigation reports directly to the Attorney General of the United States.

I have no direct reporting responsibility, as I understand at this juncture, to report to the President of the United States. And I asked him, because I knew there were serious matters that were involved here, and directly, in which the Federal Bureau of Investigation was involved, whether he saw any impediment at all to my carrying out my oath to fully and completely investigate, no matter where that might fall, and he gave me assurance that he took no

offense from the suggestion that I would do that, and that he would expect me to do that fully, and I relied upon that.

That was, to me, the most important question that I could ask him, and it was among the first that I did ask him. It is not easy to discuss those matters with a man with whom you will be working for many years, but I perceive and I believe he perceives that his oath, and my oath, carry that responsibility. Without being too verbose, I would tell you that I have recognized this from the beginning.

I have been a judge for 12 years, but before then, I was a U.S. attorney, and before then, I worked for the Department of Justice. I know of no single instance, Senator, ever, in any circumstance, where any political consideration was given to anything that I did, period.

I have tried to keep myself free from it because I believe that the public—and you are serving the public in all those capacities—is entitled to know that the person in that position is not acting in a partisan fashion.

And I think that that one thing would give me at least the basis for being that way. And I know that there are high pressures, and high office can bring high pressures, but I hope to be able to resist them.

The CHAIRMAN. We know from experience, Judge, that on occasion, over the last 50 years, there have been not only inquiries from an Attorney General that are improper, but we have known that there have been direct inquiries from the White House itself, directly to the FBI, not through an Attorney General.

I want to emphasize, I am not singling out this administration, but there are going to be future administrations as well.

What would you do, if you received an inquiry from the President of the United States, or someone in the White House, that you felt to be improper, or wrong?

Judge SESSIONS. First of all, if I could recognize it immediately as being improper, or being wrong, I would suggest, immediately, that I felt that it was not appropriate for me to respond in any other fashion than to decline to do what was requested.

On the other hand, it might be in a more veiled fashion, Senator, and you are, of course, familiar with that. I have always relied, very carefully, on talking with people who are directly associated with my responsibility, whether it be a assistant U.S. attorney, whether it be the Judges of the court, in dealing with those kinds of matters.

And you can say, well, Judge, you may not have time to do that. I think, in those serious matters, you have to take the time, and if you ask me what would trigger that concern, I would have to say the very fact that it came from above, rather than from the bottom, up, that you would have to say, and give serious consideration as to whether it was in fact politically motivated.

The CHAIRMAN. Now let me give you a specific example. How do you believe you would respond to a request from a White House aide for a confidential FBI investigative file? Do you think that is appropriate?

Judge SESSIONS. I do not have any problem with that at all. I know that my predecessor, and so far as I am concerned, the

Bureau, has a policy that is scheduled with a procedure that is routinely, and in every instance followed.

If there was a procedure and a plan that was to be implemented, it would be followed, and I would say the simplest way to deal with it, if there is a simple way, is to request in writing what is requested, and look at it, evaluate it, and decide whether to reply affirmatively, or not.

If there was not time to do that, I would request the assurance of the person making the request, that in fact there were no political objectives involved, or that they considered to be proper, and then I would staff that matter immediately before either agreeing to it or not agreeing to it.

I know of no other way to approach it. You may have some suggestions as to how I might, but I——

The CHAIRMAN. Well, one of the suggestions that Judge Webster made was that he commit to keep a log of all contacts between the Director's office and senior FBI officials and the White House, and Members of the Congress as well.

Would you commit to this committee to keeping such a log, so that in the event that your judgment, as all of us, on occasion—our judgment is not what we would like it to have been in hindsight—if your judgment turned out to be mistaken, that you would have a record that was available to the appropriate agency, whether it be an investigative committee of the Congress, or the Justice Department itself?

Would you commit to keep such a log?

Judge SESSIONS. Without qualification. Absolutely.

The CHAIRMAN. Also, do you know if either—let me put it this way. Do you think it is proper for a White House official to request the FBI to delay an ongoing investigation?

Can you think of any circumstance in which that would be proper? It would not come from the Attorney General. It would come directly to you, to delay an ongoing investigation.

Judge SESSIONS. I can understand the request coming. I think, again, that there has to be a very careful assertion by the Director of the FBI, if that request did come, that he needed to discuss the matter with the Attorney General of the United States and/or staff the matter, to see whether in fact it was going to be proper to delay an investigation.

It might well be, in some circumstances, totally proper to delay an investigation, but I would think those would have to be compelling reasons, they would have to be non-politically motivated, and you would have to satisfy yourself from staffing, and reliance upon staffing procedures, that you correctly responded.

I do not know that there has to be, inherently, a distrust of a request. I think you have to presume probably it is a proper request, or else it would not come from the official of Government. I think you have to look at it, and you have to be sure you look at it, and you have to make your own judgment about it, and respond, of course, as quickly as you possibly can.

The CHAIRMAN. Well, my time is up, and I have many more questions on this area, and others, but I would suggest that if there is a request relating to access to files and/or delaying an investigation that comes from the White House, on the political operation in the

White House, whether this one or a future one, that the exact opposite instinct and antennae should go up. The exact opposite.

It should be, "This is probably not a good idea." And I would hope you would lean that way, rather than the other, because the route to go, it seems to me, is clearly laid out, and history is replete with illustrations of the abuses that have taken place when that wrong route has been taken.

But I will not take any more time at this point.

Judge SESSIONS. Mr. Chairman, I shall accept that advice, and I will put my antenna up, and I will try to respond appropriately on the occasion.

The CHAIRMAN. Thank you. Senator Thurmond.

Senator THURMOND. Thank you, Mr. Chairman.

Judge, a good many of us have a good many questions, and if you will just make your answers as brief as you can.

Judge SESSIONS. I will try to do that. Judges do tend to get verbose.

Senator THURMOND. Judge Sessions, since the President announced his decision to nominate you to be Director of the FBI, you have been characterized as a tough "law and order" judge who is dedicated to vigorous enforcement of the law.

Would you tell the committee if you feel that is an accurate characterization.

Judge SESSIONS. Absolutely. And I do not fail to recognize the importance of it. We are a country which chooses to govern ourselves by law, Senator.

Senator THURMOND. Judge Sessions, what do you consider to be the primary goals and priorities facing you at the FBI, if you are confirmed as its Director, and what actions will you take in accomplishing these goals?

Judge SESSIONS. Senator, I do not see any great departure from the investigative obligations and priorities that Judge Webster set and the Bureau followed. I know each of those is a really great top-notch concern to the country's well-being.

I do believe that the priorities which he established are the correct ones, but, as we all know, times change as times will, and you have to be able to respond effectively.

For instance, could we have said 20 years ago, we could have the problem of terrorism? The chances are none of us could have predicted it, and would have. Was the response there? And the answer is yes. I think we have to be ready to re-order priorities, and I will expect, and I am sure receive, the guidance of the Congress and the Senate of the United States in doing that, sir.

Senator THURMOND. Judge Sessions, during your tenure as a Federal district court judge, I am sure you have noted an increase in drug-related cases which have come before your court.

The increase in the illicit drug flow into our country and the means required to reduce this illegal activity are important issues with all members of this committee.

Do you feel that the FBI, the DEA, as well as other law enforcement agencies, have adequate resources to combat this problem, and do you have any recommendations that might reduce the illicit drug flow?

Judge SESSIONS. Senator, first, you speak of adequate resources. It is my belief, from what I understand to be the law enforcement posture, that there are more failures than there are successes, and that drug traffic continues to grow.

That would seem to indicate to me that the resources are not necessarily adequate. I have no complaint about the Bureau's budget at all, nor do I have any question in my own mind about the general role the Bureau will play.

I would say this: I place great confidence in the integrity and the management ability of Mr. Jack Lawn. I know that Mr. Lawn has in fact pursued a diligent course as the Drug Enforcement Administrator, and I have a great anticipation of having good strong cooperation with him.

If there are more resources that are needed, then that of course would be our request. Whether the Congress will grant it is another matter, but I would trust that we all know the danger.

As to the balance of the question, I believe that it has to have a top priority.

Senator THURMOND. Judge Sessions, there are some who feel that the wide range of responsibilities of the FBI dilutes the effectiveness of the agency. Would you tell the committee your opinion on this subject.

Judge SESSIONS. Senator, it is my belief that we must absolutely define more carefully, every day, the responsibilities of the FBI to assure that the maximum utilization, and best utilization of funding is made available to the law enforcement effort.

Because of that, to me it is apparent, that we are going to have to do everything possible to bolster local law enforcement in every way we possibly can, and to be aware of the international matters that relate to cooperation because of the spread of lawlessness.

I would say that that resource is always critical. The State role, the local role, is also critical.

Senator THURMOND. Judge Sessions, as you may know, I introduced a bill, S. 278, which would amend title 18 to limit the application of the exclusionary rule.

This bill would ensure that the exclusionary rule does not apply in cases where police officers have acted in a reasonable and good-faith manner.

Would you please give us your view on this proposed amendment.

Judge SESSIONS. I have some ambivalence, Senator, and I will tell you, frankly, I do. As a judge, I know that the protections that are afforded by the exclusionary rule are extremely important to the fair play, and the proper carrying out of the law enforcement responsibility.

As a judge, when I would see those things, I would know there were occasions where matters which otherwise might come out would be suppressed. Good faith of a law enforcement officer, to me, is important. It is not to be taken lightly.

And my own belief is, in the role as Director of the FBI, that I would encourage a careful review of that, and a careful carving out, if there can be exceptions. But by and large I am happy with it the way it is, because I know that as difficult as it is for law en-

forcement in the courts, that it protects rights of citizens, and that is very important.

Senator THURMOND. Judge Sessions, there has been a great deal of discussion concerning the possibility of merging DEA with the FBI.

As it stands now, the DEA Administrator reports to the Attorney General through the FBI Director. Additionally, the two agencies' training programs are now combined.

Judge Sessions, what do you see as the future of DEA versus the FBI, and are you in favor of merging the two organizations?

Judge SESSIONS. The last question, Senator, is I do not favor it, and it is my understanding that the Attorney General has made it clear at this stage that it will not be merged.

It may be, that at some future time, other consideration will be given to that. What I do believe is that it is not only possible, but absolutely essential, that there be the strongest possible cooperation between DEA and FBI under our present responsibilities.

I do believe that the steps that are being taken now, to assure that coordination—and they are very active in the FBI, and they are very active in the DEA—that those possible areas of cooperation and coordination be followed, and I am looking forward to dealing more closely with that, sir.

Senator THURMOND. Judge Sessions, two areas which come under the jurisdiction of the FBI are white-collar crime and counterintelligence.

Do you believe that sufficient investigative resources are devoted to these subjects, and would you explain your answer?

Judge SESSIONS. I would say that they are, at the present time, among the top priorities within the manpower allocations of the FBI. As to whether or not they are sufficient, Senator, I would have to say that I would doubt that they are, sir.

And the reason I would doubt that they are is because we know that white-collar crime is in fact on the grow. We know that the necessity for protecting the interests of this country with counterintelligence efforts are extremely strong and necessary, and that if I were to answer you candidly—and I am bound under my oath to do that—I would say that the resources there will have to grow because the problem continues to grow.

Senator THURMOND. Judge Sessions, there have been concerns raised regarding the degree of cooperation between local, State, and Federal law enforcement agencies, particularly in the areas of organized crime and drug-trafficking.

Would you tell the committee your feelings on this matter.

Judge SESSIONS. I mentioned it earlier, Senator, and I do not mean to be redundant, but I think it is absolutely critical, absolutely critical to United States law enforcement throughout this country, that we have the maximum possible cooperation that can be extended, so that you have a joint effort between local, State, and Federal agencies.

If you do not have that, you deny to yourself some of the capabilities that might otherwise be available. Everything the Bureau can do to help enhance that should be done.

Senator THURMOND. Judge Sessions, will you tell the committee how you feel the Comprehensive Crime Control Act of 1984 has af-

fected law enforcement. Some people have said this is the finest crime bill that has ever been passed by the Congress.

Judge SESSIONS. I do not know that I am qualified to give you a precise answer to that, Senator, but I would say this. The effort of the Congress over the many, many, many years, to bring about that legislation, shows that it was very carefully done, and I presume that is in fact properly characterized by you, that it is the most effective crime bill in the history of the country.

I have nothing that would dispute that. I do not know facts and figures, and of course I have not had cases presented under all parts of it. But I would characterize it the same as you, sir.

Senator THURMOND. Thank you very much. I understand my time is up.

Judge SESSIONS. Thank you, Senator.

The CHAIRMAN. Thank you. Senator Kennedy.

Senator KENNEDY. Thank you very much.

Judge Sessions, just to review, again, an area that was brought up by the Chairman of the committee, but I think is an area which is really, perhaps the most important, and that is the independence of the FBI from political interference.

We have been here in the Senate when we saw the FBI marred by extra-legal and politically motivated activity that included the unauthorized opening of thousands of first-class letters, and spying on political groups engaged in lawful activities, break-ins, questionable electronic surveillance, attempts to discredit the reputations of many law-abiding citizens.

These events not only betrayed the constitutional principles this country is built upon, but dishonored the dedicated agents who, over the years, have served the FBI so well.

Fortunately, three lessons have been learned in the wake of the difficult period. First, the Congress has to have a more meaningful oversight role with respect to the FBI, and, second, the FBI, and particularly its Director, must remain immune from the political pressures from the executive, and, third, that the Congress live up to its oversight responsibility. Thereby, the FBI remains politically independent, and the Executive, Congress, and the Bureau can forge a really effective partnership to tackle the challenging issues that the Bureau confronts.

These lessons were impressed upon me by direct experience, and beginning in 1972, I chaired the hearings that uncovered the abuses in the electronic surveillance area, and this laid the groundwork for the Foreign Intelligence Surveillance Act, which I am happy to say, Judge Webster recently testified had been serving the Bureau extremely well.

Now, in exploring the issue of independence, I will recall for you something Judge Webster said about the benefits of an FBI charter, when he appeared for confirmation hearings before this committee in 1978.

Many of us worked very closely with Judge Webster, at that time, to try and establish a charter. A decision was made subsequently not to move ahead, but in response to those questions about establishing a charter, Judge Webster said: "I think one of the things, historically, that happened, which caused some erosion of confidence in the Bureau, were requests for investigations and

requests for activity that, in my view, should perhaps not have been made, and of which the Bureau had no real benchmark upon which to refuse to act upon, or which to protest the instructions to act."

Senator Biden went over some of these examples with you, but I want to continue.

Judge Sessions, we do not have a charter to help the Bureau just say no to politically motivated directives from the Attorney General or the White House. If you had that charter, you would be able to just say that, very clearly.

So this is one of the reasons, it seems to me, why the independent-minded FBI Director is so important, and why there is such emphasis on independence during the course of these hearings. A 10-year term guarantees that a Director will serve under more than one President, but it cannot substitute for a Director's tough-minded independence.

You have said that if you received an inquiry from the White House, or Attorney General, which you thought was improper, you would get more information and do staff work.

Well, when Judge Webster was nominated to be FBI Director, he was asked during confirmation hearings whether he would enlist the help of congressional oversight committees in the event he were asked to do something improper, or unlawful.

And paraphrasing his answer, he said that if he determined something were in fact unlawful, he would make that view known first to the Attorney General, and if his opinion went unheeded, he would speak directly to the President.

He then said that if the President did not overrule, or withdraw the request, he would feel compelled to take the matter up with the appropriate oversight committees in Congress because his commitment to serve the full 10-year term would preclude him from resigning.

Now I am not asking you whether you want to just accept that as a guideline. He was asked, spontaneously, what steps he would take and he outlined it. We are driving at the same kind of issue and question, and I am just wondering whether you might take the same course of action if you were asked to do something that you believed to be unlawful?

Judge SESSIONS. I do not have trouble adopting what he said in response to a question that was thrust upon him there, Senator. I do not know, always, about the time factors involved.

Senator KENNEDY. Right.

Judge SESSIONS. But I am a rule person. I believe in rules. You work rules. I work rules. You know they are made to be followed. And rules and internal procedures, and guidelines are critical, and if you are not absolutely certain about the answer yourself, absolutely certain, then you have to seek guidance.

And if you do seek guidance, it has to come from staff. Or if staff is not able to give it to you, totally, to the Attorney General, and to the President of the United States, and I have no reason not to share with this committee, or any proper committee that has the matter in oversight, either in closed hearing, or otherwise, the problem that I might have in that regard.

I do not intend to resign, or to seek the shelter of a resignation. At the same time, that might be the only course that would be left open to a Director, but I would think you should explore it.

The public, and the Congress of the United States would expect you to explore it before you did that. Absolutely.

Senator KENNEDY. Well, I think that is reassuring, and I think, hopefully, that what you would recognize is that you have the committees that are here, whether they are the Judiciary Committee, or other committees that have important responsibilities—that you have those that want to work in a constructive and positive way with the goals that you have outlined, and I think very credibly, and very importantly during your own response to some other question.

Let me move on to a different subject. As you know, we have limited time.

Over the last several years, the FBI agents have questioned many citizens who opposed this administration's policy in Central America. Citizens have been questioned about their lawful travel, about their political beliefs, and association.

The House, for example, received testimony that by early 1985, roughly a hundred Americans who had travelled to Nicaragua were questioned by the FBI. The evidence also suggests that the questioning is continuing.

While there possibly were legitimate grounds for the FBI to initiate the underlying investigation in these cases, concerns have been raised that agents have, may have, continued probing into political beliefs and affiliations well after it was clear no criminal activity was involved.

Obviously, this can have a "chilling effect" on first amendment rights. I hope you share my view, that the Bureau must tread very carefully when lawful political activity is at stake.

I am wondering, if you are confirmed, whether you would commit to do two things with respect to investigations of foreign policy critics.

First, would you review the procedures that implement the Attorney General's counter-intelligence guidelines, to make sure that these investigations do not become too broad?

Judge SESSIONS. To that I would answer absolutely, yes.

Senator KENNEDY. And second, would you make sure that the instructions given to field agents ensure the emphasis remains on criminal activity and not lawful political activity?

Judge SESSIONS. I have no problem with that at all, Senator. I think they are very important matters. I know that the information-gathering procedures are absolutely critical to all of us, but the citizens' rights are of equal, if not greater importance, because you cannot invade those unconstitutionally, impermissibly.

Senator KENNEDY. Moving again into areas about the make-up of the FBI's mission. From the early days, the Bureau's agents and top staff were virtually, without exception, white and male, and using the early days as a point of reference, we have made progress.

I think Director Webster's commitment to the issues played a big part, and I am just wondering whether you believe the Agency itself ought to reflect, in a more general way, given its responsibil-

ities, the society, generally, in terms of the inclusion of both minorities and women in areas where they can fulfill the responsibilities?

Judge SESSIONS. By turning that around, Senator, I might give you a stronger feeling about my own belief.

I believe that the Federal Bureau of Investigation would benefit, significantly, from having a reflection of the make-up of this country, and by including those persons who might have at some time, in some way, been excluded, you assure that.

My own first efforts at discussion with the Bureau about those matters were the assurance that my objectives are compatible with those that are presently pursued.

So if there is a suggestion that they are not properly pursuing, I would be pleased to hear it, because it must be pursued.

Senator KENNEDY. You understand that the Attorney General has the general responsibilities in the areas of the enforcement of civil rights. Obviously, the FBI has an extremely important responsibility in investigations.

We have seen the training and education process that has been adopted by the FBI has included important training programs in the areas of civil rights to better equip the agents.

I know Judge Webster, again, during this period of the last 9 years, has initiated many of those training programs, and brought people to those training sessions, and I would be interested if this would be something that you would intend to continue, or review, and find out ways that the role of the FBI in this area of civil rights would be sustained, or enhanced?

Judge SESSIONS. One of the things I learned early on as a U.S. attorney was that the Bureau had an absolute obligation in civil rights matters to do an immediate investigation.

I think there is a 10-day time limit on it. My record as a U.S. attorney will reflect that I believe very strongly those have to be pursued. Every area of training that you can do to ensure that ought to be followed, and I will give you one other thing, gratuitously.

It is my belief, that even though the statute which requires the approval of the Civil Rights Division is appropriate, there are many times where I believe, in the past, the Department has not vigorously enough pursued those prosecutions where a U.S. attorney wanted to pursue it.

And I would hope that maybe, maybe by conversations with the Department, we can get some procedure established whereby when a U.S. attorney wants to prosecute on a civil rights violation, that will get a priority review, and will enhance our ability to prosecute.

Senator KENNEDY. Mr. Chairman, I had one additional area If I could, I would file those questions. It deals with the FISA, the Foreign Intelligence Surveillance Act, which I have been very interested in. We did not get a chance. It is not very elaborate, but if I could file those questions, if they are not covered by the other members, at the conclusion of the hearings?

The CHAIRMAN. Without objection.

Senator KENNEDY. Judge Sessions, I look forward to supporting your nomination and voting for your confirmation for this important position.

Judge SESSIONS. Thank you, Senator.

The CHAIRMAN. Judge, there may be other Senators, as we go along, who will file questions to help expedite this, and I realize it makes a little harder work, but we would like very much to get those answers in writing as quickly as you can, because I would very much like to, on Tuesday, around noon, actually have an executive committee meeting to vote on your nomination, and I would not want to have—I do not think there will be a lot out there, but, you know, it may mean a little bit of extra work beyond the hearing.

Judge SESSIONS. Senator, I will be pleased to do that. I have my dictaphone in my briefcase. You would expect me to have it there, wouldn't you?

The CHAIRMAN. All right. I certainly would.

Judge SESSIONS. Yes, sir.

The CHAIRMAN. Senator Grassley.

Senator GRASSLEY. Thank you, Mr. Chairman.

Senators Biden and Thurmond wrote you a letter on August 27, asking many questions, one of which dealt with an area you previously had a great deal of concern over: Pornography.

Judge SESSIONS. Yes, sir.

Senator GRASSLEY. Since the period of time covered by your question, the Supreme Court, in the *Ferber* case, has given much more leeway to the Justice Department in prosecuting child pornography.

Congress has strengthened that law as a result of that *Ferber* case. So I would like to ask you how you would view the FBI's role in conjunction with the U.S. Customs Agency, in preventing the importation into this country of material depicting children in pornographic situations?

Judge SESSIONS. Well, the libel laws of the Bureau of Customs, as I understand it, are enforced by the Bureau of Customs.

Senator GRASSLEY. That is right.

Judge SESSIONS. And that the libeling process is a civil process and not a criminal one.

As to the role of the Bureau, Senator, I would not be precise, but I would say this. If it goes beyond the entry into the country, and is not libelled and therefore stopped, and if in fact it involves child pornography in violation of law, I think the Bureau resources ought to be put forward that would adequately meet the requirements of the law, to be sure that those concerns are met.

Senator GRASSLEY. Thank you.

Judge, as you are aware, there are organizations that operate in this country, such as the Ku Klux Klan, the PLO, the Aryan Nations, and other paramilitary organizations, just to mention a few—and you can probably add to that list, maybe even more prominent organizations that the FBI has been involved with monitoring—and I do not use that word "monitoring" except in a very general way.

I would like to have you tell me just when does an organization's activities become a concern of the FBI's; and, more importantly,

how you think that present relationship ought to be continued or changed under your leadership?

Judge SESSIONS. Generally, Senator, I am satisfied, that in my review of guidelines that relate to the initiation of an investigation, that I will be able to see where that threshold is. But I would say, generally, any organization which contemplates disobedience, and advocates disobedience of the laws of the United States, would be an appropriate group for investigation, if the preliminary standards are met. That is, if the guidelines are met.

If there is a group that might not at this time be identified, that would be of the nature of those that you have described, I think you would agree, that the threshold would have been met.

So you just have to be sure that the guideline is met, the threshold is met, and that you do not invade those without very strict adherence to those requirements.

Senator GRASSLEY. Thank you.

On another point, assuming your advice would be asked on this point, would you recommend that the implementation of the sentencing guidelines promulgated by the U.S. Sentencing Commission be delayed?

Judge SESSIONS. Senator, I did not expect to be asked that question but I will be glad to answer it as best I can.

The most serious responsibility that any judge undertakes is the sentencing process, because it calls upon his own individual ability to abide by the sentencing guidelines that have now been established. So training is absolutely essential.

And without belaboring it, I will tell you that, for instance, in the Western District of Texas, we had the procedure set where the judges would gather on the 18th of October to be absolutely certain that we were familiar, totally, with the guidelines, but we do not yet have all of them. So it is not yet complete, and the training mechanism might be more effective if in fact it were delayed.

But I do not know that it is my province to invade that discussion. But you have asked it, and I have answered as best I can, sir.

Senator GRASSLEY. On another point, is there any legislation that you can think of at this point, that you believe is needed to better define the FBI's jurisdiction or role in any area of law enforcement?

Judge SESSIONS. There is none that I can think of, Senator, but I would beg your indulgence to allow me to review that and to come back by written correspondence, or correspondence with you, indicating that I do believe there is an area.

Of course, I would recommend that to the Attorney General of the United States, and I am sure he would then decide whether to pursue it, or not.

Senator GRASSLEY. Okay. Then without me submitting it in writing, I would ask that you respond, in writing, if you would.

Judge SESSIONS. I will be pleased to do that.

If you will allow me, Senator, I will not do that immediately because I cannot study that immediately. But I will pursue it.

Senator GRASSLEY. Okay.

Judge SESSIONS. All right. Thank you, sir.

Senator GRASSLEY. Judge Sessions, how do you feel about the FBI being used as the law enforcement agency to investigate so-called

executive branch leaks of information to the media, or to the Congress?

Judge SESSIONS. Senator, I do not really know how to respond to you. I would say, again——

Senator GRASSLEY. If you do not know how to respond, then let's do not try at this point, but do it in writing, would you, please?

Judge SESSIONS. I will be pleased to.

The reason I do not know how to respond is because I am not aware of the scope of the problem, and you say, well, how can you not be aware of it when it is so critical a matter here? I have dealt, day to day, with a matter of leaks that relate to grand jury, or to those types of operations, but I am not accustomed to thinking about the investigative role in connection with leaks.

I know, from past history, of course, that there has been some utilization of the Bureau's resources to do that. I can remember, back in the Watergate days, there were leaks here, leaks there, leaks of grand juries, et cetera, but I am really not prepared to properly respond.

Senator GRASSLEY. Presently, Federal workers are being forced to sign an oath that they will not reveal information that is "classified." Now, no one would object to this because, obviously, you cannot reveal information that is "classified." However, this same oath goes on to include so-called "classifiable" information. I would like to have your response to whether or not you feel Federal workers ought to be required to take an oath not to reveal this so-called "classifiable" information?

Judge SESSIONS. That is an open-ended category, I would certainly see that, and I will be glad to respond, Senator.

Senator GRASSLEY. Yes. Okay.

Mr. Chairman, I believe that is all my questions. Let me note, though, for the Chairman, that there are three points to which he will respond in writing, and I would like to make sure that we have these prior to the vote Tuesday.

The CHAIRMAN. All right. Without objection.

Judge SESSIONS. Thank you, sir.

The CHAIRMAN. Senator Metzenbaum.

Senator METZENBAUM. Judge Sessions, I understand from your previous answers, that you would refuse to comply with a presidential order, or order from the Attorney General that you believed was illegal.

What about an order that you considered to be unethical?

Judge SESSIONS. That is a more difficult question, Senator. I think, again, my salvation, if I had salvation, would come in reference to my own feelings, and following procedures that were established in staffing it, and consulting.

If in fact it was perceived to be unethical, then I would say that a judge has a hard time not refusing to do something that he questions.

If it is questionable, if it is unethical, a person with a judicial background would simply have to say I cannot do it, and to seek guidance, or to modify it, or to change it. It is just a very dangerous area, and you should not do it.

Senator METZENBAUM. I thank you. I think you said that a judge would have difficulty doing it. I think you meant an FBI Director would have difficulty.

Judge SESSIONS. I would hope so.

Senator METZENBAUM. If the Attorney General asked you to delay an investigation, what response would you make?

For example, Attorney General Meese asked Mr. Webster to delay the investigation of Southern Air Transport's role in furnishing assistance to the Nicaraguan contras.

If you disagreed with the Attorney General's justification for the delay, what would you do?

Judge SESSIONS. I appreciate your putting it directly to me, Senator, because it relates to something that has been the source of a great deal of investigation by the Congress of the United States, and many, many people have dealt with it.

I do not know that there is any answer beyond what I have originally given, and that is that if I were asked to delay an investigation, I would ask, first of all, if that, if possible, could be put in writing. If not, I would still go ahead and staff it, being certain that I had the request in mind, to see whether or not it should in fact and could in fact properly be delayed.

If I felt it could not be, and should not be, and that there was a reason not to, then I would in fact consult with the Attorney General, tell him that, and convey that to the President of the United States, if that is where the request came from.

There may be suggestions that you have about procedure, but that would seem to me to be what I would do.

Senator METZENBAUM. Thank you. Let me ask you a related question about the timing of investigations.

Judge SESSIONS. Yes, sir.

Senator METZENBAUM. Attorney General Meese conducted his Iran-contra inquiry November 21st and 25th of 1986.

He discovered a document discussing diversion of Iran funds to the contras on November 22d.

He interviewed Lieutenant Colonel North on November 23rd and learned that a diversion had occurred, but he did not consult the Criminal Division until November 25th, after private meetings with CIA Director Casey, Admiral Poindexter, Donald Regan, and the President.

From TV and press reports, are you generally familiar with that sequence of events?

Judge SESSIONS. Senator, I am vaguely familiar. I have not watched the Iran-contra hearings, sir.

Senator METZENBAUM. Do you see any problem, from what you had learned about it? Do you recognize any problem with the Attorney General's delay in bringing the Criminal Division and the FBI into the investigation?

Judge SESSIONS. If I were to evaluate it, I would say that any person who runs an agency obviously has to do his own internal investigation as to what is happening within the agency. But if he steps outside the agency, then he has to be very certain that he does not undertake investigative responsibilities that are not his under the statute, and therefore, I gather that it would be appro-

priate to seek the investigative expertise of the FBI on those matters, once you step outside your agency.

But, again, I do not have the knowledge of the specific circumstances. You do, and the Congress of the United States does, from its very careful investigation of what actually transpired.

Senator METZENBAUM. There are currently a number of independent counsel investigations under way, and in at least one case the independent counsel has requested authority to investigate additional individuals, and that request has been denied by Attorney General Meese.

If you were Director of the FBI, and you became aware of information that suggested that high-ranking officials had committed crimes, and that the Attorney General had refused to permit an investigation of those individuals, what would you do?

Judge SESSIONS. Well, I recognize that not all cases that are investigated, because a person who investigated might think they have further merit, are necessarily cases that should be pursued.

It would be my general belief that my product, as a lawyer, is like my product as Director of the FBI. That my responsibility is to investigate those matters, and that the responsibility for timely and properly prosecuting those matters rests with the Attorney General of the United States, either through the United States Attorney, or through some division of the Department of Justice.

I cannot tell you, clearly, what I would do, except that I would, I know, talk directly with the Attorney General of the United States, and try to persuade him of the merit of pursuing the investigation through criminal prosecution.

Senator METZENBAUM. And then if he did not agree going up further, to the President, would you——

Judge SESSIONS. I know that my reporting is through the Attorney General of the United States, and I would say this. That if I felt that there was something improper, or that was politically motivated in the Attorney General deciding not to pursue it, and that it should be pursued, then I would again seek counsel, as Judge Webster has apparently previously done with either oversight committees, or with the—or take it in my own hands, before taking any other action, go to the President of the United States.

Senator METZENBAUM. My question assumes that high-ranking officials had committed crimes, and that that information comes to your attention.

Judge SESSIONS. Well, I would, again, stick with my answer that I gave you previously, Senator.

I know this: that the investigation may or may not be adequate for prosecution. If there were not I would require, or inquire, rather, in what portions, or in what manner the investigation was not adequate for prosecution.

If, in the final analysis, it was found that it was absolutely air tight, and that there was no question about the prosecutorial merit of it, I would pursue trying to persuade the Attorney General of the United States to do that.

And I think that if it went beyond that, that I would have to consider very strongly approaching the President of the United States. I do not know what else to do with it.

Now there may be suggestions you have as to what I could do with it. Your oath requires you to carry out and enforce the law, and I would pursue it.

Senator METZENBAUM. Recently, three organizations, the National Abortion Federation, Planned Parenthood Federation of America, and Catholics for a Free Choice requested a meeting with a representative of the FBI to discuss their concern for the safety of medical personnel and patients in family planning and abortion facilities, and to offer cooperation in assuring such safety, present information on threats received by reproductive health facilities in the eleven American cities to be visited by Pope John Paul II, and to outline plans for preventing violence at such clinics during the September 10th to 19th papal visit.

I have just been reading the actual quote. These groups also noted that, quote, "a group identifying itself with the papal visit has specifically threatened that it will close down any facility that performs abortions in any city to be visited by the Pope." End of quote.

The FBI refused to meet with these organizations. The reason given was that the Bureau of Alcohol, Tobacco and Firearms had jurisdiction over arson and bombings.

Frankly, Judge, I think it is outrageous that the FBI would refuse even to meet with these reputable organizations about legitimate public-safety concerns, and would buck it over to the Bureau of Alcohol and Tobacco.

Since the FBI would not meet with these groups to hear the specifics, I do not know how a determination could be made that the FBI had no jurisdiction.

Now, frankly, it appears to me that you may actually become the Director of the FBI prior to the papal visit. I wonder if you would assure me that if you are confirmed as Director, if time permits you would meet with those groups, and beyond that, would you in the future honor requests for what I consider legitimate organizations—I think everybody would consider to be legitimate organizations—when they are asking to meet in connection with their concern for their safety and their security, and they are law-abiding citizens?

Judge SESSIONS. I hope you don't find my answer evasive, but I would provide, under any circumstance, for the flow of information, Senator, so that the information which might have been gained by an agent actually going out and interviewing that group and finding what the concerns of that group were, that by gaining that information, it could flow back in to see whether or not the threshold was met for a proper beginning of an investigation by the FBI.

I think that would be something that would fall very definitely under guidelines. And if, in fact, you found that there was a reason for the Bureau, in addition to ATF, being involved in it, then it could be pursued.

As to whether or not I, as the Director of the FBI, if I were confirmed, would actually meet with those groups who expressed those particular concerns, the chances are I would say no. Convey your information in fact to an agent of the FBI, or give me the writing and then tell me what you have as a basis for your concern.

Senator METZENBAUM. But I read that, Judge, I read the fact that the group itself said that a group identifying itself with the Papal visit has specifically threatened that it will close down any facility that performs abortions in any city to be visited by the Pope.

Now, I gather that that's been a publicly made threat. Under those circumstances, and you send an agent out, until he gets back, by that time, the Pope's visit will have been concluded, and possibly there may be some loss of life, or certainly the loss of property.

Judge SESSIONS. I am confident now, Senator, if in fact those groups who indicated that information was available, and make it in a specific form, then I am confident that the Acting Director, John Otto, will look at it. And if they can do that—it's a mere allegation that somebody says that they're going to close them down it doesn't necessarily mean that there is going to be any action taken. I don't know.

But I'll be glad to receive the information. I think Mr. Otto would as well.

But the thing that concerned me was I don't want to make a blanket statement to you that I would meet with those people and that I would discuss it with them. If they have serious concerns about potential violations of law, then there's a mechanism which is routinely used. I've used it many times.

Many times a judge is contacted and it is said, you, judge, please make an investigation. And I will say, almost invariably, I cannot make an investigation. Supply your information, your information to the U.S. attorney or to the FBI, and if they can properly pursue it, they will.

Senator METZENBAUM. I think my time has expired, and I've got a rule myself, that my time has expired on myself.

Thank you.

Senator Specter.

Senator SPECTER. Thank you, very much, Senator Metzenbaum.

Judge Sessions, I would like to first pursue the subject of the FBI serving as the investigative arm for independent counsel, formerly known as the special prosecutor.

Judge SESSIONS. Yes, sir.

Senator SPECTER. And there have been some concerns expressed over the years about the potentiality for conflicts of interest.

Judge SESSIONS. Yes.

Senator SPECTER. I recall the Warren Commission investigation where the FBI conducted many of the investigative steps, and there was an area of concern as to potential conflict there because the FBI was under investigation itself. And now you have the FBI conducting investigations for many independent counsel.

Judge SESSIONS. Yes, sir.

Senator SPECTER. And some of these investigations touch sensitive key personnel of the Federal Government, including the Attorney General himself.

I'm informed that there is some information from the investigative work of the FBI special agents for independent counsel which comes back to the FBI. And I would be interested in your thinking as to whether there is any potential for conflict of interest for the FBI conducting these investigative roles?

Judge SESSIONS. First of all, let me answer the question in part, and then I want to inquire of people who are here from the FBI as to a factual matter.

First of all—it's my understanding, Senator, that those agents who are detailed to special counsel responsibility are in fact severed out, in effect, and they have no reporting responsibility within the framework of the FBI.

Now, that's what I think is correct. Now let me see if that is correct.

Senator SPECTER. Well, my information is to the contrary, that there's some skeletal information which is provided back to the FBI.

Judge SESSIONS. Let me inquire.

Senator, I'm assured by Mr. Bolton, who was discussing with me, and Mr. O'Brien that what I told you essentially is true, but that there can be some departure from that if, in fact, there is a continuing investigation of another matter where information developed can be pertinent and relevant.

But I will explore that further for you and I'll discuss it further with you, but that's my understanding, sir.

Senator SPECTER. Well, all right. I wish you would because the information that I have had is to the contrary.

However those facts may be, do you view the matter as raising any potential for conflict of interest? Say, for example, where an FBI agent was detailed to independent counsel, and that FBI agent may be investigating the Attorney General himself, and upon the conclusion of that investigation, the agent returns to the FBI, and, of course, he works for the Director, but he also works for the Department of Justice and the Attorney General.

Do you see any problem with potential conflict of interest?

Judge SESSIONS. No, I do not. I think there is a potential for a problem, but I think I can assure you that now that you brought it to my attention, I will discuss very carefully with staff the designing of some mechanism that will assure that an agent is informed that upon return from a special agent assignment in connection with special counsel, that he is not to divulge those matters of the investigation without the consent of the Director of the FBI. And that way I could be personally responsible for whatever was divulged if it was divulged within my directive.

Senator SPECTER. Well, aside from the issue of divulgence of information, do you think that there is any chilling effect or any inhibiting effect on an FBI agent conducting an investigation, say of the Attorney General himself, knowing that he is going to be coming back to the Department and working really in effect under the former subject of the investigation?

Judge SESSIONS. No, I don't think so. And the reason I don't think so is the reason I first stated to you this morning, and that is my direct discussion with the Attorney General related to myself, and I can't perceive of it going beyond myself. If it doesn't affect me, it will not affect that person.

I can't say that it might not be awkward. Obviously it's awkward. But I have the assurance of the Attorney General of the United States that he would expect me to carry out my oath, and I

would expect the same of an agent of the FBI and have no question about it being done.

Senator SPECTER. Well, I appreciate your answer, Judge Sessions, and that may be so. It may be that somebody in your capacity has somewhat of a stronger position in standing up than an agent who is far down the line in what he is doing.

There are going to be extensive considerations and suggestions on the whole subject of independent counsel; that is a major matter for controversy right now as to whether independent counsel is constitutional. Some independent counsel have accepted collateral assignments from the Attorney General. The issue of the investigative arm is very critical. And I think it is something that we will want to pursue in the future after you have had an opportunity to review it. And I'm not sure where you come out on it, but I call that to your attention because there is at least the potential for a conflict of interest.

Judge SESSIONS. Thank you, sir.

Senator SPECTER. Let me shift gears for the balance of the 5 minutes which I have on my 10-minute segment, to the subject of independence.

And I believe that this is a very important aspect of your role, and I touched on it in my opening statement, and you and I discussed it when we had a chance to chat yesterday, and it's been discussed to some extent already.

There were disclosures in the confirmation hearings of Judge Webster for Director of CIA, when he appeared before the Intelligence Committee, about matters which had been called to the attention of the FBI which really highlighted the potential for problems. And there was a July 18, 1985, memorandum which pinpointed inappropriate conduct of Lieutenant Colonel North way back then, about a year and a half before it came to light. And Judge Webster said that there was an unusual technological failure on the transmission of that particular document.

And I would ask you to take a look at that when you have time, if and when confirmed, and let us know what response—and I think this would be after the fact of the confirmation process realistically—what has been done, what you intend to do about such technological problems?

There was a similar issue raised——

Judge SESSIONS. I'll be pleased to respond to that, Senator, and I expect to be reminded if I fail to do so.

Senator SPECTER. Okay.

Judge SESSIONS. Thank you.

Senator SPECTER. There was also a question raised about a contact by Executive Buck Revell, one of the top level FBI officials who, at the request of Lieutenant Colonel North, contacted an assistant U.S. attorney in Philadelphia about a request to delay the questioning of a witness before a grand jury.

And, at first, Mr. Revell told the Intelligence Committee, on April 13, 1987, that he did intercede and, 4 days later, there was a modification of what Mr. Revell had testified to.

And then Judge Webster testified that he believed that Mr. Revell should have cleared that with the Director of the FBI before a request was made to hold up on a grand jury investigation.

And I would like your view as to your consideration of the propriety or impropriety of the FBI requesting such a matter, even on a request from a ranking White House official, and what you would do to stop them.

You spoke about a grand jury investigation. Was there a request that the grand jury investigation be delayed, or that an investigation by the Federal Bureau of Investigation be delayed?

Judge SESSIONS. The request was that a witness not be called before a grand jury, but that there be a delay in the calling of the specific witness, and that request was made by Lieutenant Colonel North to Mr. Revell.

Senator SPECTER. And as I say, Mr. Revell first informed the Intelligence Committee that he had made the request for the delay of the calling of the witness and later recanted that testimony. And my question to you is what do you think about that and how would you enforce a rule prohibiting that kind of interference?

Judge SESSIONS. Well, first of all, I have always operated on the understanding with those persons who supply information to me, whether they be law clerks or whoever is supplying the information, that they tell me what I need to hear, not necessarily what they think I want to hear.

And I would say that the judgment of any person who is in that high capacity as Mr. Revell, who is inundated with a great deal of information, much of which would not normally be imparted necessarily to the Director of the FBI. But I've encouraged, if we've learned from history, the necessity of reporting some of those things. If there came a request from above, the chances are that there is potential, at least, for a political overtone. Therefore, I will discuss that and make that a part of my own discussion with my staff to be sure that if the request had come from, not the Director of the FBI, but from above to other persons below the Director from the White House that are of a nature that are political in character or could be, they discuss it with me. The delay of an investigation could obviously be that type of that thing.

But I can't prejudge. The Congress of the United States has looked at it exhaustedly, and I certainly wouldn't want to give an opinion where I don't really know truly the full development of it.

Senator SPECTER. Well, my time is up so I'll cede back.

The CHAIRMAN. Let me suggest, Judge, we had indicated we would stop at 12 until two. But I think if you are willing, it would be more appropriate to continue.

I will not be able to stay for this continuing round, but four of my colleagues, three of them indicated they would like to have at least one round before lunch. If I could ask Senator DeConcini if he's able to chair the hearing for the next 40 minute or thereabouts, you'll remember who the ranking Democrat is, so that each of my colleagues will get a first round of 10 minutes.

Welcome, Senator Simpson and Senator Humphrey, I guess we're up to 50 minutes. But we'll break at the latest by one.

Judge SESSIONS. That will be fine.

The CHAIRMAN. So that you have an opportunity at least to have an hour for lunch.

Judge SESSIONS. Thank you.

The CHAIRMAN. And we'll reconvene at two.

With that in mind, I will turn the gavel over to Senator DeConcini because several of us will have a second round of questioning, and then we will move. Hopefully, by 3 o'clock or thereabouts, you will be finished and we'll able to move to the panel of witnesses, all of whom, I might add, are for you. There is no one in opposition unless someone gets rustled up in the hallway, which I hope they don't.

And so with that, let me yield to Senator DeConcini and turn the gavel over to him.

Senator DECONCINI [presiding]. Thank you, Mr. Chairman.

Judge Sessions, I realize that judges and future Directors of FBI are strong men. If you do need a period of time, 3 or 4 minutes, please so express yourself, and we can certainly find that time, all right?

Judge SESSIONS. Thank you, sir.

Senator DECONCINI. Judge, I have a number of questions. Let me first start with, in May of this year, there were very disturbing accusations that were directed at the FBI, that it was engaging in domestic investigations of U.S. citizens under guise of foreign counterintelligence activities.

The accusations included break-ins at offices of the anti-contra groups and homes of their members; burglaries of the Dallas office of the Committee in Solidarity with the People of El Salvador; and incidences in which the U.S. customs agents seized personal items from Americans returning from Nicaragua and turned them over to the FBI.

Are you familiar with those accusations?

Judge SESSIONS. I'm familiar with them generally in the sense that I've heard those have been made, Senator. I'm not familiar with the specific facts of them, no.

Senator DECONCINI. If these accusations were true, do you feel the FBI should engage in such activities?

Judge SESSIONS. I would say no, Senator. But I do believe this, that the investigative responsibility of the FBI to gain information obviously has to come from sources where that information is available, and the gain of information from persons returning from foreign travel is, of course, important and can be very, very helpful.

A person is always entitled to say no, I don't choose to give information. Thank you. And I can understand, because all of us can understand that when you are confronted with an FBI agent who identifies himself and says I'm from the FBI, I want to talk to you, there's an immediate concern. I think we would all have that. You would have it, I would have it. I'm concerned when a policeman would stop me. Fortunately, it's been a good while, but if a policeman stopped me, I would be concerned.

Senator DECONCINI. I guess what I want to know, Judge, as the Director, will you investigate these accusations or see whether an investigation is going on, if it is not?

Judge SESSIONS. I shall do that, sir.

Senator DECONCINI. And would you report to the Judiciary and the Intelligence Committees the findings?

Judge SESSIONS. I shall be pleased to do that in a form that is appropriate, Senator, if there are matters that need to be conveyed only to you or in closed session, I will be pleased to do that.

Senator DECONCINI. Thank you.

Judge Sessions, the New York Times has recently published a three-part article exposing the increase of activities of Chinese organized crime. And the information is most disturbing as to their involvement in drugs.

Are you familiar with this matter at all?

Judge SESSIONS. I am only vaguely familiar with it. I have read "The Year of the Dragon," and that's the extent of my expertise at this stage, Senator. But I am aware generally of the allegations there is an increase in that area of crime.

Senator DECONCINI. Well, for approximately 3 years, this increase in Chinese infiltration has been predicted, and Federal assistance has been solicited by various State agencies.

Are you willing to pursue the attack of these newcomers in the area of organized crime and narcotics?

Judge SESSIONS. I would say absolutely yes.

Senator DECONCINI. Will you offer the assistance of the Bureau to those requesting help to secure some assistance if they are not now?

Judge SESSIONS. Mr. Lawn is sitting behind me, and I am sure that he has expert knowledge of these matters. And I intend immediately to confer with Mr. Lawn about these particular matters, yes.

Senator DECONCINI. Very good.

Well, as a member of the U.S. Senate I have met with agents who have found themselves fighting the war on drugs, which you will head in a sense, as well as combatting organized crime. Your statements are most encouraging on that as I indicated at the beginning, do you foresee devoting more resources to organized crime and drugs, or have you had a chance to assess those assets within your Bureau?

Judge SESSIONS. I'm aware of the percentages generally, and I don't want to convey them to you here in public, but I would do it otherwise.

But I do believe this, that it's absolutely essential that the Bureau offer the kind of expertise where it really and truly has it. And if the general thrust of the Bureau's involvement in the drug area, drug enforcement, is to add our expertise to long-term deep enterprise-type investigations, then that would mean that that commitment must come from the top and not from the bottom.

Senator DECONCINI. Judge, thank you. That's helpful.

Let me ask you this. Are you aware that the FBI does have contacts in foreign countries?

Judge SESSIONS. I am aware that there are, in fact, agents who are, in fact, based in other countries, yes, sir.

Senator DECONCINI. And also that there is some apprehension from the State Department as to expansion of this role?

Judge SESSIONS. No, I was not aware of that, sir.

Senator DECONCINI. Well, I think it's most important that that continue in my judgment. And I only ask that you consult with the State Department after you're confirmed to hopefully not have the

resistance that may be there. I don't want to make those accusations, but I'm concerned about it from my own foreign travels, talking to some of the people at the FBI that have worked overseas about the problems that are confronted with the State Department.

It seemed to me something that might be worked out from the top level, that there could be some rules or some procedures or somebody advising somebody that would not prohibit the FBI from having those resources that they can acquire from overseas.

Judge SESSIONS. Well, it's my understanding that the FBI has a limited area, very limited area.

Senator DECONCINI. It is very limited.

Judge SESSIONS. That's involved where it can properly pursue investigative activities.

Senator DECONCINI. In the last couple of years, the relationship has developed between the FBI and the Senate Committee on Intelligence. Granted there have been times when the lines of communication were not as good as we all would like.

Will you agree to maintaining an acceptable form of communication with the Judiciary Committee and the Intelligence Committee?

Judge SESSIONS. The answer is an unqualified yes.

Senator DECONCINI. Will you also agree to make available to the Intelligence Committee information of both foreign counterintelligence and domestic national security matters?

Judge SESSIONS. I will either do that, Senator, or will pursue it from the point of view of why I should not. If there are reasons why I should not, I'll discuss those fully.

Senator DECONCINI. You will discuss those with the Intelligence Committee?

Judge SESSIONS. I most certainly shall.

Senator DECONCINI. Considering the recent events uncovered by the Iran-Contra affair, I feel it's so vitally important that we have your word on this so we can start off on a fair level ground that we understand each other.

Can you assure me that in the event you are approached by a representative of the executive branch and asked to act on a matter of national security, you will not hesitate to provide that information to the appropriate committee, particularly the Intelligence Committee?

Judge SESSIONS. I'm not sure I understand your question, Senator.

Senator DECONCINI. Well, if you are approached by representatives of the executive branch, and you are asked on matters of national security to do something, to take some action, will you have any hesitancy to convey that in the confidential manner that is provided by the law to the appropriate Intelligence Committees?

Judge SESSIONS. I want to say that I wouldn't have any hesitancy. But what I discussed earlier with you would remain true, and that is that I would make every effort to staff it and see whether that should or should not be properly given to them.

If it should not properly be given, then I would pursue, as one of the alternatives, the possibility of discussing it with the committee.

Senator DECONCINI. Well, hypothetically, if it involved a covert activity, and that you were not satisfied or did not have proof that

either a finding had been issued by the President or that the Intelligence Committees, at least the Chairman and the leadership as provided by law, had been advised, would you feel it incumbent upon yourself, Judge Sessions, to go to those particular individuals and convey what you know about the matter?

Judge SESSIONS. The answer to that is yes. That is, I would work my way up the ladder beginning with the Attorney General of the United States.

Senator DECONCINI. Thank you.

I have taken 10 minutes and I will yield. I will be back, Judge Sessions, at 2 o'clock for a final round of questions.

I yield now to Senator Simpson.

Judge SESSIONS. Thank you, sir.

Senator SIMPSON. Mr. Chairman, I thank you. And I really don't have questions, and will just take a few moments here and then expedite the process.

It's very nice to see you again, Judge. It's a pleasure to have you with us today. I join with all my colleagues in noting really what is an outstanding record of service that you have made to the country in the Department of Justice and as U.S. attorney, United States District Judge for the Western District of Texas.

And I look forward to a full and complete hearing. In the very brief time I've been here, you're certainly well versed and well prepared for these type of proceedings. Sometimes they are a lot worse than this, I can tell you that, and they will be in other cases, a little bit hairier, more hair than I have certainly.

But I indeed anticipate you will be confirmed by the Senate. This is such an extraordinarily key position, one of the key offices in the country in maintaining our system of equality under the law. And as Senator DeConcini states, and cites an instance, the FBI indeed is a very respected organization, but I think people have a fear of it too. And that's the word I want to use, fear. Respect and fear sometimes intertwine.

I think we think of the FBI and we think "boy, I hope they're never after me".

As a lawyer, I have many colleagues who went into the FBI as special agents, and one of my law partners was a special agent with the Bureau for many, many years.

So it is a critical job and, of course, those on this panel have talked about the essence of personal integrity to carry forward the duties of the Director of the FBI with the utmost personal integrity and character and independence.

I think you have all of those qualifications in rare amounts. And you have certainly demonstrated your prowess as a District Judge. It seems you're most referred to as being tough but fair minded. I think that's a very fine appellation to have with your name. The same qualifications are going to serve you very well as Director of the FBI.

So I just want to welcome you to these hearings. I look forward to working with you, as I have worked with Bill Webster who just to me was one of the most superb of men, always accessible, very reachable, very hearable in what he was telling you. He did not flee behind the verbosity when he was nailed or we were trying to find out things. He was there.

Your predecessor brought great honor to the office, and I know that you will too. And I think the thing, as I conclude, is that it seems to me, it's my hunch that you're going to be very much a hands-on administrator, and that this giant agency of Government you will be observing and working with and listening to and understanding why they are doing what they are doing, whether it's working, whether it's to the best interest of the country. Reading about your background and your public statements and your judicial decisions leads me to believe that you are a deeply impressive person.

Having served on the Select Committee on ABSCAM, co-chaired by Senators Mathias and Inouye, and done within its budget, and concluding within 9 months, it showed me the absolute deep importance of having a hands-on administrator. That's what Bill Webster was. That's why the ABSCAM thing worked. That's why 26 appeals failed to overturn any of the major decisions that were made by William Webster. And I hope that you will have the same hands-on intensity as you pursue the job. Everything I know leads me to believe that would be the case.

And I would just ask you is that the case? Is that the intention you have with this agency?

Judge SESSIONS. I would say absolutely, Senator. I don't know that I'll be able to go better than 26 and 0, but I'll try.

Senator SIMPSON. Well, at least, let the game only last nine innings. Around here, it lasts 27.

Thank you very much.

Senator DECONCINI. Senator Simpson, thank you very much.

Senator Leahy.

Senator LEAHY. Thank you, Mr. Chairman.

And, Judge Sessions, I just want to emphasize what Senator Simpson said. As he normally is, he was absolutely right. Are you getting this, Alan?

As Senator Simpson said, and as he normally is, he was absolutely right, I think the FBI Director should be a hands-on Director. It makes little sense in this country to have something go wrong and try to find out who had a responsibility. Everybody will give pious statements about, well, you know, the buck stops here. But, of course, I never did see what happened. That doesn't work. It has to have somebody who really does.

And one of the areas that concerns me, and I mentioned it in my opening statement, is the area of terrorism and counterterrorism. Judge Webster made counterterrorism one of the Bureau's top four priorities. He had white collar crime, foreign counterintelligence, organized crime. And I think we're getting something out of that.

In 1982, there were 51 terrorist instances in the U.S.; in 1986, there were only 17, and most of those came from one wave of terrorism in Puerto Rico. And according to Judge Webster's testimony before the House Appropriations Committee this year, there have been no domestic terrorist incidents in the U.S. in 1987.

In 1982, the FBI prevented three terrorist incidents in the U.S.; in 1985, it prevented 23.

Now, there have been a lot of successes, and sometimes when you're having successes, people tend to overlook the threat.

Do you believe that domestic and international terrorism continues to be a major threat here in the United States, within our borders?

Judge SESSIONS. I have no reason to think it is not because I think there continue to be people who do not wish us well in that regard. And the incidents of statements indicates that it is going to continue to be a problem.

I talked earlier, Senator, about the allocation of resources. And I went back the other day and found on the most pressing issues that Judge Webster observed in March, and one of them was what he called internationalism and crime. To me, that partakes also of terrorism, and I think it's a very valid and important continuing consideration and has to be kept foremost.

Senator LEAHY. So you would consider this to continue being a priority?

Judge SESSIONS. Yes, sir.

Senator LEAHY. We've got a number of things here. In Congress we passed the Comprehensive Crime Control Act in 1984, that made terrorist actions against Americans abroad a Federal offense. We have powers under the Neutrality Act, the Foreign Intelligence Surveillance Act, the Racketeer Influence and Covert Organizations Act, the Diplomatic Security and Anti-Terrorism Act.

I think what we tried to do in the Congress was to give the executive the legal tools it needs in terrorism.

My concern is that the terrorists are going to try to use highly lethal materials. We once concerned ourselves about stealing a nuclear weapon or building one, but there are also the things that could come in in a thermos bottle and biological weapons as I also stated in my opening statement, just the reaction about it, and what you would be called upon to handle could totally change the whole idea of what we do. It's one thing when you're going after a murderer, it's something else when you're going after somebody who has either threatened literally hundreds of thousands of Americans or maybe injured or killed them.

Do you also have that concern about the risks of terrorists trying to use highly lethal substances against this country?

Judge SESSIONS. Yes, I would have a concern, and I would say that, that the Bureau would be in a more unique position, beyond probably any other investigative agency, to deal with it.

Senator LEAHY. Do you know what role the Bureau has in coordinating the activities of, for example, the Department of Energy, Defense Department, State and local law enforcement, in dealing with terrorist activities aimed at either nuclear, chemical or biological warfare?

Judge SESSIONS. Not specifically, Senator. But it's my understanding that there are in those major cities continued involvements from representatives of the State and local agencies that deal with terrorism, and that those are in place, yes, sir.

Senator LEAHY. Judge Sessions, we've given you, each of us, sort of a laundry list of things we'd like you to look into when you get over there, and I mention this, because your wife and I will probably not see you again now until at least Christmas, to follow up on.

Would you do for me, when you get over there, as I probably expect you will, look into what role the FBI has in coordinating these kind of counterterrorist activities among other agencies of the Government?

We'll be having more oversight hearings as we go along. I will be raising it again with you. After you've been there for awhile, I'd like to sit down and talk with you about it anyway.

Judge SESSIONS. I'll be pleased to try and discuss that responsibly when the time comes, Senator.

Senator LEAHY. Thank you very much.

Now, another area is in the high-tech tools you're getting. I understand that you have done something that a lot of us have not learned how to do. We can't figure how to use our computers to run the Senate, but then the Senate always moves reluctantly even moves from the quill pen era, and we usually try to stay at least 30 years behind anything of reality in electronics.

But you've used computers in managing your docket and you seem to use it quite well. You've got the NCIC used by 64,000 State and local criminal justice agencies. I used it when I was a prosecutor. It's amazing things, but it also lends itself to some manipulations and examinations. You have a massive data base in the NCIC. I worry about it in fishing expeditions, casting a wide net rather than a single line.

Do you see any possibility of abuse in such computer banks and technology?

Judge SESSIONS. Well, information and the availability of it to a wide spectrum of law enforcement agencies and other individuals, of course, always poses a concern.

I would say this, that it's obvious to all of us that the benefits derived from the system as we now know it have been just tremendous. And the sharing of information is the hallmark of investigative technique. And I don't know any other way to be sure that we share this information with local agencies where they are responsible, with international agencies where it's appropriate, to be sure that we have an adequate data base.

I'm sure it's subject to abuse, yes, sir, and potential abuse, yes, sir.

Senator LEAHY. The fourth amendment, normal fourth amendment rules, the normal presumptive rules would still apply even to high-tech, 21st century type investigative tools, would they not?

Judge SESSIONS. Well, yes, sir. You know and I know that, for instance, just getting a simple thing like a rap sheet, how the judge may use it is open to question. But the information is there.

And it's always difficult when you find that there has been a charge but no disposition. You truly don't know anything about it. And you have to presume with the judge for the purpose of sentencing, for instance, that it didn't happen at all because you're not entitled to presume a person to be guilty of it simply because the information is listed.

If an agency is dealing with it in the same way, it is information that would lead them possibly to corroborate something ~~else~~ that happened or to be an investigative lead.

So I can't say that just a listing of it is bad. There may be a time where it ought to come off. But I don't have the expertise now to say that.

Senator LEAHY. May I suggest this? I know in the—and I left the prosecutor's role 13 years ago—but even then when we would use NCIC, or we would use some of these other things, we would periodically sit down in the prosecutor's office and try to determine just how we were using that, to what extent were we detracting from someone's presumption of innocence, but still balancing the fact of allowing a police officer, who is stopping a car on a lonely road at 3 o'clock in the morning, to be able to know whether that license plate or that person is wanted for an armed robbery.

And I think we have to understand that the computer capability doesn't itself relax the constitutional limitations. And I would strongly urge you within the Department, within the Bureau, to, whether you do it in a study group or whatever, constantly go back and explore how those computer technologies are being used. Because everybody wants good law enforcement, everybody wants their own privacy. And it frightens, I think, a lot of people that there are these massive computer banks. As you know, the potential for everything from determining what television programs one watches to what kind of items they purchased and so on, are available.

And so I'm not trying to discourage you from using them, but I would hope that you would constantly look at it with a careful eye.

Judge SESSIONS. I was astounded at the number of inquiries that are made. I had no idea that there are around 600,000 inquiries made each day to the NCIC.

Senator LEAHY. And then one last thing, and I will be submitting some other questions to you, but I've also found, just like in the military, we can get awfully overwhelmed by the gee-whiz things and all the computers and everything else. Sometimes a very good field agent out there will be worth all the computers you're ever going to have here or anywhere else.

I look at the B–1 bomber that was going to do absolutely amazing wonderful things. The only thing is we can't get it to fly or do any of the things it's supposed to, but we sure spent an awful lot of money on it.

Buy the computers you need, but don't forget those field agents out there.

Judge SESSIONS. I appreciate being reminded because they are absolutely essential to the functioning of the Bureau, and they are the basis for the entire operation of the Bureau.

Senator LEAHY. Thank you. Judge, I will be periodically talking with you and with the people in your office in both the areas of the use of computers and counte terrorism. I think you will be back here a lot of times as Judge Webster was.

Judge SESSIONS. Thank you, sir.

Senator LEAHY. I yield to the Senator from New Hampshire.

Senator HUMPHREY. Well, we've reached the low end of the totem pole. It's so low I don't even have a cushion like the other Senators have, and I have to peer over this.

Judge SESSIONS. I have one somewhere.

Senator LEAHY. Some of us are tall enough we don't need them.

Senator HUMPHREY. My colleagues have plowed the ground well, as they generally do. I want to plow a new area, at least I think it's new, I wasn't here at the outset. But, in any event, Judge, a key concern of mine relative to your duties, prospective duties, is keeping tabs on foreign spies. And I think we do a very poor job of that in this country.

I had correspondence with the FBI recently in which their reply stated that approximately one-third of all Soviet Bloc diplomats in this country have significant intelligence responsibilities, one-third, and I suspect that's probably a conservative estimate. Indeed, my impression is that the situation in this country with respect to spies, foreign spies, is analogous to kids running through a candy store helping themselves to whatever they want.

And I don't know exactly why we have done as poorly. I suppose it's the nature of our society. But, in any event, it has long since become a very serious problem, threatening our national security and, indeed, costing us a heck of a lot more money on defense than would otherwise be the case if we took more prudent precautions against spies instead of essentially letting them run free to steal whatever they care to steal.

Are you acquainted with the 3-year plan recently adopted by the Bureau, a plan that lays out the Bureau's priorities?

Judge SESSIONS. I'm aware that it exists and I'm aware of the general configuration, yes.

Senator HUMPHREY. But you're not conversant with the plan itself?

Judge SESSIONS. No.

Senator HUMPHREY. And so, therefore, you wouldn't know the priority assigned in that plan to monitoring the activities of foreign spies?

Judge SESSIONS. Well, the counterintelligence area is a high priority area, Senator, and the gaining of that information is, of course, utilized in that connection.

Senator HUMPHREY. I wonder if it truly is? I mean I would hope that it is a high priority. But I wonder if it truly is.

I mean there have been relatively few expulsions, relatively few convictions if my memory serves me correctly of foreign spies. And yet we know that there are thousands of them running rampant throughout this country. And I think we need to do far better.

Would you tell me about your personal priority and sense of responsibility, prospectively, in this area?

Judge SESSIONS. I can think of several things related directly.

First of all, I think in the computer era, in the high-tech area, there has to be, always, an encouragement to law enforcement agencies to assist industries themselves in protecting their own best interests and protecting those areas that are of great interest to foreign interests or foreign nationals. That kind of leadership I think should be exerted.

I think the second thing is that there is no question in my mind that every piece of information that we are able to gain concerning activities of foreign nationals to gain information here has to be utilized to try to prevent it.

From what I understand, the conviction rate has been very high, and that there have been virtually no prosecutions undertaken

that were not successful, maybe one, maybe two. And so I think that we have a success rate based upon proper investigation that is significant

Senator HUMPHREY. Yes. Now of convictions. But prosecutions is my gripe. I don't think we're going after enough.

Judge SESSIONS. It may be that the resources of the Bureau need to be enhanced actually by the Congress of the United States to allow us to pursue an enlarged mission, if they have it, or an enlarged area of responsibility if they have it.

Certainly right now, you know how we're limited

Senator HUMPHREY. That may be. That may be. But you will never get as much money as you want. I'm sure you recognize that.

Judge SESSIONS. Well, I do not hesitate at all to welcome suggestions from the Senator concerning what priorities ought to be. And to me that's meaningful. You're knowledgeable, and I appreciate it.

Senator HUMPHREY. Well, fine. But I'm not just using the opportunity to give you my opinion. I want to know in this advice and consent process what your opinions are, your priorities, your concerns and, in particular, with regard to the FBI's responsibilities in counterespionage.

Judge SESSIONS. I have absolutely no argument at all with the priorities that have been established in the previous areas that we've discussed. And of the five that have always been laid out, white collar crime, public corruption, counterintelligence and, of course, terrorism.

Senator HUMPHREY. Within the same area of concern——

Judge SESSIONS. I think I left out organized crime, but I'm a slow reader, Senator.

Senator HUMPHREY. Within that same area, the siting of the new Soviet Embassy is a matter of grave concern.

You mentioned a moment ago, alluded to the technological revolution, if you will, in spying, and certainly an elevated location for an embassy with lin of sight, VHF line of sight capability to the Pentagon, to the State Department, to Capitol Hill, although I don't know what anyone would have to spy up here, I mean everything is leaked anyway but, nonetheless, you know what I'm talking about. The Soviets have a very advantageous position on that site. They have not yet occupied their embassy, although they're using the living quarters for antenna sites, and one can only wonder what must be connected to those antennas beyond television sets, if any of those.

Are you at all concerned about that? Are you acquainted with what I'm talking about to begin with?

Judge SESSIONS. Well, I think you are talking about taking of the high ground.

Senator HUMPHREY. Yes. Mount Alto it's called. Highest point in the District, and the Soviets have it, thanks to the State Department. And it's just the best possible site for spying, especially using advanced electronics these days.

I hope that you would take a personal interest in this. I think we've put ourselves in a very bad situation. I don't know what can be done about it at this late date. It would take action on the part of the Congress.

But, in any event, I hope that you will take a personal interest in that site, as well as this whole issue, much broader issue of foreign spying, because I think we're just being taken to the cleaners these days with hardly a whimper.

And convictions are fine. I'm glad to see that you're succeeding, the Department is succeeding, Justice is succeeding in its prosecutions. But the question is, are we prosecuting as many as we ought to be? Are we monitoring these people as carefully as we ought to be? I frankly have the strong impression that we are not, and I would like to have an opportunity to talk with you in 6 months or so and see where you are on this subject and see what we can do to improve poor performance.

Judge SESSIONS. I look forward to doing that, Senator.

Senator HUMPHREY. Thank you, Mr. Chairman.

Senator HEFLIN [presiding]. Judge Sessions, now that I assume the exalted position of being the presiding officer, would you like to do what we usually do relative to judicial confirmation hearings, introduce your family?

Judge SESSIONS. I would do it again, Senator, yes.

Senator HEFLIN. Did you do it earlier?

Judge SESSIONS. I did it earlier.

Senator HEFLIN. I missed it.

Judge SESSIONS. I would be pleased to introduce my wife, Senator Heflin, and my daughter, Sara. I have three sons, two of whom are in San Antonio, they are old men, and one who is up in Piscataway, New Jersey.

Senator HEFLIN. Thank you, sir.

Under the present situation, the Attorney General is assigned concurrent jurisdiction to the enforcement of the Controlled Substance Act to the FBI and the Drug Enforcement Administration.

Do you feel that this dual jurisdiction, this division of responsibility is helpful in our fight against illegal drugs?

Judge SESSIONS. I would have to say yes, sir.

Senator HEFLIN. Well, there are considerable concerns, and there's concerns relative to legislation that we passed in regards to bringing all the forces that would be helpful against the illegal entry of drugs into this country.

We have, for example, in my area on the Gulf Coast now, what we call the Mobile Corridor by which low-flying airplanes late at night land 150 miles or so inland at a very rural airfield where they are met by trucks, and either the local law enforcement may know nothing about it, and they are difficult to interdict those illegal drugs coming into this country.

We have endeavored to try to give some responsibility to the Armed Services. They don't want to take responsibility—they're reluctant to take certain responsibilities and to have priorities with it. And we amended the laws and, in my judgment, have weakened even the Posse Comitatus Act that we had passed previously.

You've got a lot of agencies that could be helpful and, under the law, have responsibilities, including the Air Force, the Navy, the Army, the Coast Guard, Customs and the DEA and the FBI. And it looks to me that this is an area that could be better coordinated because we're really not stopping the illegal drugs coming into this country.

And I would suggest, if you would, to try to look into that area and endeavor to try to bring about as fine a coordination as is possible under existing divided authority, and under the existing laws that we have.

Now, I suppose that, in your judicial capacity as a District Judge in the western part of Texas, that you have had cases involving the illegal entry of drugs into the United States along the border and in that area, is that correct?

Judge SESSIONS. Yes, sir.

Senator HEFLIN. From your experience with this, do you have feelings as to what could be done to improve the interdiction of these illegal drugs coming into the country?

Judge SESSIONS. Yes, I do, Senator.

Senator HEFLIN. Would you care to expound on any of those?

Judge SESSIONS. I have a wealth of ignorance about the National Drug Policy Board, but I salute what is being done. Because that's exchange of information and giving policy statement and direction to all.

My own feeling is that it is absolutely essential that there be the maximum amount of cooperation and exchange of information among agencies. And in fact where there are matters of conflict, that they be discussed at the highest levels and resolved at the highest levels.

And you've heard me several times today mention Jack Lawn. I am eager to work with Jack, and eager to find out as much as I can about that area of coordination and that area of exchange of information and that area of cooperation. I think it's just absolutely essential. I think common sense tells us all it has to happen. And I think it will happen.

Senator HEFLIN. Now, when you go into any existing agency, I think you will find that there is a bureaucracy. It may be good, it may be bad. I just challenge you to not accept but investigate and explore the bureaucracy that exists in the agency and make your own determination whether change needs to be done.

It's just inevitable that existing organizations say that this is the way we've always done it, but that doesn't mean that it's the best way. And so I challenge you to go in there with an open mind and with curiosity and the backbone to make changes if it's necessary.

Judge SESSIONS. I thank you, Senator, for your support, because that is absolutely essential I believe.

Senator HEFLIN. Now, of course, there's the issue of relationship with Congress. And do you have any hesitancy about coming to Congress and testifying when requested to do so?

Judge SESSIONS. Personally, absolutely not. Institutionally, I'm going to find out that I have direct responsibility, and I can't imagine not sharing it to the extent I'm able to do that, Senator.

I think you're entitled to know and in the proper form I think you're entitled to hear from the Director. And I intend to do that, sir.

Senator HEFLIN. Since I'm the only remaining one present, it is with pleasure that I recess this hearing until 2 o'clock.

Judge SESSIONS. Thank you, Senator.

[Whereupon, at 12:41 p.m., the committee adjourned, to reconvene at 2:00 p.m., the same day.]

AFTERNOON SESSION

Senator DECONCINI [presiding]. The Judiciary Committee will reconvene—good afternoon, and thank you so much.

There will be another vote, so there's going to be some interruptions here. We will go ahead and start. And as the acting chairman, I will continue my questioning.

Judge Sessions, by executive order as well as statute, as I'm sure you know, counterintelligence functions are divided among the FBI, CIA, and components of the Defense Department. As director of the FBI, you assume the chair of the interagency group on counterintelligence. This role will involve developing national policy recommendation in providing a form for new initiatives.

Have you had a chance to familiarize yourself with the function as the head of this counterintelligence interagency group?

Judge SESSIONS. Senator, I may have had a chance. I'm aware of the responsibility, and I am aware of the duty that's imposed by the law. But I am not familiar with this function, no sir.

Senator DECONCINI. Let me then suggest that the questions I would give to you here are more in a general sense, and I will submit them for the record.

And I really just want to call your attention to how important I feel this particular area is and get your views on what the director and the head—rather, the chairman of the interagency group's responsibilities are and how you feel about it. And if you would respond to those questions, I'll go on to some other.

Judge SESSIONS. Please do that, sir.

Senator DECONCINI. Thank you.

Now, Judge Sessions, this committee has had, I think, exceptionally fine access to Judge Webster when he was the director and other members of the FBI staff and DEA.

The function of the FBI is to testify before Congress on various activities on various different subjects, ranging from your budget request to sensitive matters, including activities of Soviet-bloc nations and other countries attempting to compromise our national security defenses. Can you assure us that dealing with those areas of national security as they relate to Soviet-bloc countries that you intend to keep this committee and certainly the Intelligence Committee advised as to what activities the FBI is involved in when it deals with foreign nations?

Judge SESSIONS. Yes.

Senator DECONCINI. There have been a few cases where I felt, at least—and I think the record shows—that as the head of the NSC interagency group, the FBI has not responded fully or promptly to Senate Intelligence Committee requests. Earlier this year, the FBI did not reply adequately to the questions submitted by the committee on behalf of the Helsinki Commission of Congress in its investigation of the Medved case—the Soviet sailor who jumped ship and was taken back on board.

Under Section 501 of the National Security Act, you, as the FBI director, will be required to keep the interagency committee "fully and timely informed of FBI activities and to respond to committee requests for information." Now, I only bring this to your attention

because to me it was quite embarrassing that the FBI—and Judge Webster, quite frankly—did not do more.

Now, maybe hindsight is always better, but this was a most embarrassing situation where this man was taken back; where the FBI did not respond, in my opinion, to the committee. And we had to press them very hard to get any type of responses. And I hope that you will take a serious look.

And my question is can we assume here that you will personally be involved—when you receive requests from the Intelligence Committee for information—in making the decisions whether or not that information should be forthcoming?

Judge SESSIONS. I will make it my business to be involved, Senator. I will also assure you that if I cannot respond, I will be more than willing to give my reasons why I believe I can't and discuss those further.

Senator DECONCINI. Likewise, it was interesting to note that during the investigation of the Committee for Solidarity with the People of El Salvador, it became very apparent that Judge Webster was not informed of the FBI investigation of CSPES until months after its approval. This came out at his hearing for the CIA director.

And my concern is that—what procedures or what do you intend to do to see that you are apprised of investigations that might be going on, having full confidence in your subordinates that they know what they're doing or that you're out of the country or out of contact? What kind of procedures do you intend to go on so you don't have a situation, as Judge Webster had to admit to this committee, that he didn't realize it was going on.

Judge SESSIONS. I can't say that it won't repeat itself, Senator. I can say that if I have a management style, it is concentrated into two sentences. I need to hear what I need to hear, not what you think I want to hear. And I will insist upon doing that. There are things I need to know, and you need to tell me—absolutely. And don't just tell me what you think will be pleasant to me or what I would want to hear.

Senator DECONCINI. Well, when you take an investigation of a potential bombing of an abortion clinic, as Senator Metzenbaum raised, or in this the Committee for Solidarity with the People of El Salvador—if someone who has jurisdiction in the FBI decides to make such an investigation, do you feel the director should be advised of that?

Judge SESSIONS. I think in those areas that are now identified as very sensitive, the answer is relatively easy. Obviously, there there should be a matter of advice. The question is what's down the line.

Senator DECONCINI. Yes.

Judge SESSIONS. What pattern do you use to be sure?

Senator DECONCINI. Exactly my next question. What are you going to do to set a pattern, or do you have some idea of what your criteria are when they must bring it to your attention?

Judge SESSIONS. I have no idea on criteria except to say that there are very definite areas where I think you have to make it very clear that they have no right not to inform you, that you need to be informed.

And one of the things I talked about again with Mr. Otto this morning before I left him this morning after I had seen him was exactly that. I had to be absolutely certain that those things that I needed to hear were brought to me and that I intended to participate fully, even in some areas that I might thereafter let go of.

I'm aware of some of the very definite responsibilities in connection with title III, for instance, that the director is going to have to review—has a statutory responsibility to do it. There are some that might not be that carefully defined but which are critical areas where from the beginning I want to be involved.

And then if I decide I should let go and give some guidelines about what is to be reported to me, I can do it. I don't intend to be run to the ground, Senator.

Senator DECONCINI. Is it safe to characterize that in the summary that you hope to be, if anything, more informed than necessary and maybe not actually have hands-on in every investigation, but you want to know about as many as you possibly can handle?

Judge SESSIONS. I think that's a good characterization, sir.

The CHAIRMAN. I think the best answer, if you'll excuse me, Senator, came from Mrs. Sessions, who——

Senator DECONCINI. Yes, I saw Mrs. Sessions.

The CHAIRMAN. I put great stock in that.

Senator DECONCINI. I do too.

Judge SESSIONS. Senator, was she under oath?

The CHAIRMAN. She doesn't have to be.

Judge SESSIONS. Oh, all right. [Laughter.]

Senator DECONCINI. I hope you're getting at what I'm concerned about, Judge Sessions. It's not directed to you, of course, because you have a record of being meticulous and what have you. And I realize that as director you can't know about every investigation that's going in Tucson or Phoenix, Arizona regarding the Solidarity movement or whatever it may be—bank robberies or what have you.

But it seems to me that it's not impossible for the director to be advised that in Tucson, Arizona you're under consideration—or there's consideration for an investigation into the Solidarity movement. So at least you know that that's there. Then if you feel your antenna is up, you want to know more about it.

That's what I'm concerned about—is that the director try to be advised of as many of these things as possible so we don't have that kind of a situation where you are asked some time in the future and you honestly tell us, "I didn't know."

Judge SESSIONS. It may be one of the things that I'll regret, Senator, but I would just as soon say it publicly in front of you and whoever is watching on the Nation's televisions. But I intend to make myself available to the SAC's upon demand. I hope they use discretion, because there are a number of them out there.

But if there are important matters that I need to know, I hope they will in fact do exactly that. And I intend to have constant staff contact day-to-day with the upper echelon in the Bureau headquarters.

Senator DECONCINI. I appreciate that answer, because I think that sends a clear message. And I think you have competent people that are not going to inundate you with the minimal inquiries as to

maybe an investigation or not. But I think the point's well discussed, and I thank you for the answer.

In 1988, the Bureau has requested an increase in agents to combat organized crime of 106 and an increase in support positions of 139. The Organized Crime Drug Enforcement Program includes a request for an additional twelve agents, increases in budget figures, including $13.5 million for organized crime and $1.9 million for organized crime drug enforcement.

Can you give us any idea—have you had a chance to review any of these figures, and do you think that is sufficient? Or is that a premature question at this time, Judge?

Judge SESSIONS. I don't think it's premature, Senator. I discussed it in part very briefly this morning.

I do not know what it's going to ultimately take. And the Congress, of course, is going to have to be the ultimate decider of how much it's going to take under a justified proposal from the Department of Justice to combat organized crime and to combat drugs. But it's obvious that it's growing. And it's obvious that it's going to continue to grow.

I'm aware of the budget generally, but not specific items.

Senator DECONCINI. I'm a big believer in coordination, and I suspect you are too without even asking you. But are you aware of any overlapping of investigations by the FBI and DEA or State and local law enforcement units and the Bureau?

Judge SESSIONS. I'm not in that sense aware of overlapping, except that I am aware generally from what I have read about areas of cooperation that have resulted, for instance, in sizeable seizures.

This morning we were talking about the additional expertise that the Bureau may bring to bear against drug traffickers. And that is in the enterprise theory. That is a thorough, in-depth, long, and extended investigation that will produce top-echelon people as opposed to mere traffickers.

Senator DECONCINI. That's most encouraging, and I think certainly of great interest to all America that you not only plan to continue what your predecessor has been able to do, particularly in New York, but intend to continue and expand it.

One of the interesting experiences I have—and maybe you did, Judge, before you were in Federal law enforcement and on the benches—so often, local law enforcement have trouble getting the confidence of the FBI—their agents.

And I must say in Arizona that has changed dramatically over the last 7 years that I know of. And I find that out not from personal experience anymore that I once had as a prosecutor but from talking to sheriffs and chiefs of police and elected county attorneys. Your people not only are willing to help us in the committee, but the response to the local law enforcement is as good as I've seen it in my brief career here and prior to coming here.

What's your commitment to that other than to continue it? Are you going to make it even better?

Judge SESSIONS. I would hope we'd be able to build on what has been accomplished thus far.

I think it's absolutely essential. I don't think it's just desirable. I think it's absolutely essential. If, in fact, the Bureau does not pro-

vide leadership in that frame—affirmative cooperation—how can we hope—when we have more and more problems on our resources and the extent that they will be able to cover the activities we are required to cover—how can we hope to do it if, in fact, the local and State law enforcement authorities are not supported? I think it has to be.

Senator DECONCINI. You're familiar with the Organized Crime Information System, which has been in use since 1980?

Judge SESSIONS. I am.

Senator DECONCINI. Additional dollars are requested for continued expansion of the system in the 1988 budget—you probably are aware of. Do you know if the installation and enhancement of the Organize Crime Center in field locations has led to the success of the organized crime cases brought by the FBI?

Judge SESSIONS. I did not know that, but I could suspect it.

Senator DECONCINI. Can you find out for me? I'm interested in what relation, if any, that has had. Just submit it to the record.

Judge SESSIONS. I can, and I will.

Senator DECONCINI. With the increase in automation in the work environment it seems clear that the FBI would be advancing along with the rest of the world. This appears to be exemplified by the Bureau's requirement for additional support personnel in all areas, including your organized crime units.

Have you any specific plans that you can display to us today for increasing productivity of the support people in the organized crime area?

Judge SESSIONS. No, sir. I can't, but I would say this in connection with automation. In connection with the capabilities that automation gives to the flow of information, it is obvious that the better the flow of information interagency between various field offices and the headquarters—the better that flow of information, the better the possibility is that you'll have better law enforcement and a greater ability to actually carry out the mission of the Bureau.

So I would say that you cannot expect to support that kind of effort without highly trained personnel from top to bottom.

Senator DECONCINI. And you're going to make an assessment of that, I take it, as you take command of this agency?

Judge SESSIONS. Absolutely.

Senator DECONCINI. It is estimated that between $80 and $100 billion is spent annually on heroine, cocaine, marijuana, and other drugs in our Nation. In 1986, the FBI redefined its national drug strategy and identified Colombian cartels, Mexican groups, and Italian criminal organizations as the most significant entities to be investigated, while other groups were also to be investigated along with them.

Will you continue to promote the close working relationship with the IRS, with the U.S. Customs, and with the DEA?

Do you have any plans of how to bring it closer than it is today?

Judge SESSIONS. I think what will happen, quite naturally, is that as I become familiar with the work of the DEA and become familiar with the work of the National Drug Board, that I will be able to do that. And I would hope to be able to do it, yes.

By Drug Board I mean National Drug Policy Board.

Senator DECONCINI. Besides the Drug Policy Board, do you think there is a role for the director of the FBI to attempt to personally work with the heads of these other agencies on a personal basis?

Judge SESSIONS. I think that's what's going to have to happen, Senator. I think there is going to have to be as much coordination and as much correlation and as much definition of mission as you can possibly have.

And I speak without true knowledge, because I know, for instance, there are apparently thirty-some agencies that have drug interdiction or drug responsibility missions, even though the principal ones are the ones you have mentioned. I think it's going to take—and I expect the attorney general to help me define my role in that regard and to do everything I can to coordinate those efforts.

Senator DECONCINI. And along that line, I take it from your statement you are committed to devoting the time personally to attempt to bring these together.

Judge SESSIONS. Absolutely.

Senator DECONCINI. Because I think someone of your stature and coming in new has a great opportunity to bring that about because of the nature of your background and the fact that I think there's going to be a great willingness to cooperate with you, I just hope that that's where you intend to direct some of your attention.

Judge SESSIONS. I do.

Senator DECONCINI. I note that the FBI, though they have had some real successes in organized crime—and I compliment the past director and the whole Bureau for that—in the past years the number of investigations, however, in which the Bureau participated as a member of the Organized Crime Drug Enforcement Task Forces (OCDETF) has declined from 349 in 1983 down to around 210 in 1986.

Can you provide us with the number of investigations the FBI has participated in as a OCDETF member in 1987? You can do that for the record, obviously.

Judge SESSIONS. I'll be glad to provide that information to you.

Senator DECONCINI. If my figures are correct, is that any concern of yours?

Judge SESSIONS. Not necessarily so. When you're going into what I would call enterprise-type of investigations, the number of investigations may be less, but the impact of them may be far greater.

A not-inappropriate comparison would be one that you are very familiar with, and that is the decision by the attorney general—I believe it was Mr. Levy—to abandon the Dyer Act area. It produced a lot of numbers, but the impact of the investigations was de minimis. The more serious the enterprise-type of investigation you're doing, obviously the less of them you can do.

Senator DECONCINI. The quality and not necessarily the quantity.

Judge SESSIONS. I would quite agree, sir.

Senator DECONCINI. I can't argue with that either. It becomes somewhat of a justification, and I don't want to leave you with the attitude that this Senator looks to numbers only. But I think that could be explained well in your budget presentations of why the numbers are down because of the significance of the case. And I'm

sure a case can be made. Or perhaps it has been, and I have missed it.

Judge SESSIONS. I'll appreciate being given the opportunity to do exactly that—to justify and to explain.

Senator DECONCINI. Thank you, Judge.

In 1986, Judge Webster testified, and I quote: "We have a very good handle on our domestic terrorist group." Yet in the same breath and in the same statement he said, "They have remarkable Phoenix-like survival capabilities."

If you were to prioritize, Judge Sessions, where do you put an investigation of domestic terrorism on your priority list?

Judge SESSIONS. Senator, it would have to be very high. I don't know where exactly to put it, but it would have to be very high.

I believe that the security of the country—the feeling of the citizens of the country that they are free from the terrible effects of terrorism is very important. You and I both know that the threat of violence is debilitating.

Senator DECONCINI. It certainly is.

Judge SESSIONS. It's debilitating on a whole country. It's debilitating on a person personally.

Senator DECONCINI. It certainly is.

Judge SESSIONS. So I think it has to have a high priority.

Senator DECONCINI. Do you consider groups such as the Aryan Nation and the order of others—do you consider them stronger today than they were a year or two ago? Or do you have any opinion?

Judge SESSIONS. I have no information that would tell me whether they are stronger or weaker, but I would be glad to communicate an opinion to you at an appropriate time, sir.

Senator DECONCINI. Well, I could go on, but I think because of time, Judge Sessions—and I want to say your answers are crisp and clear and certainly helpful to this senator as to what you believe priorities are.

And you're the one who has to run this agency, and I'm very thankful that you've been chosen and you've agreed to take this.

And I won't burden you with any more verbal questions. I may submit some for the record.

The CHAIRMAN. Thank you, Senator.

The Senator from Pennsylvania, Senator Specter.

Senator SPECTER. Thank you very much, Mr. Chairman.

Judge Sessions, this morning when my round ended, I had been discussing with you certain information which had come to the FBI concerning Lietuenant Colonel North and was in midstream on some of those matters there. And what I would urge you to do is to take a close look at the FBI contacts with the Iran-contra affair in terms of learning from—candidly—the mistakes of the past.

And I have mentioned a couple of items where the FBI had had certain contacts on the Iran-contra affair, and there were some others.

There was a memorandum dated October 30, 1986 which was prepared by the attorney general's counsel for intelligence policy which was initialed by Judge Webster which stated that "North may be involved in a criminal probe concerning U.S. activities in Central America by a special prosecutor." And going on to say, "It

would not be possible to advise other persons in the National Security Council and be assured that the technically derived information would not be made available to Lietuenant Colonel North."

And as Judge Webster testified in the flood of papers which crossed his desk, he had not focused on the need to pursue further Colonel North's activities.

It was at about that same time on October 31 that the request was made for a delay in the investigation of Southern Airlines.

And it is easy to take a look at all of this by hindsight. But when you put all of this together with information which came to Judge Webster's attention on August 5 concerning the sale of arms to Iran—and as Judge Webster testified, he had raised a concern about the policy of selling arms to a nation which sponsored terrorism.

Then you have the meeting between Attorney General Meese and Judge Webster on November 21, and you and I had discussed this briefly yesterday when we met informally in my office. I call it to your attention so that we can learn from the events of the past.

And there is something to be said, at least in my judgment, that when the attorney general and Judge Webster met on November 21 that the director of the FBI may have had the priority obligation to say, "Let's stand back a minute. This is really a matter for the FBI."

And there are a couple of factors which are hard to evaluate: one is the 20/20 hindsight, which is good in retrospect; the second is the difficult of standing up and saying to the boss, "Mr. Attorney General, let's wait a minute here, take a look at it, and see if this isn't a matter where the FBI ought to be brought in."

Had that been done and had these other indicators of Colonel North's activities been brought to the attention of the proper people, I think this country and our president and our administration could have been spared a tremendous amount of trauma.

So I would urge you to take a look at the FBI contacts, because history has a way of repeating itself and being resolute and really standing up. And I know that your background puts you in a position to do that.

Judge SESSIONS. I'll give it my best.

Senator SPECTER. Okay.

Let me shift around now to the subject of the FBI's sting investigations.

Now, this also has been a matter of congressional comment in the past, but it is worth focusing on, because the sting operation which was conducted by the FBI was indiscriminate in many of the individuals who were targeted.

Investigators and prosecutors have tremendous power to conduct investigations in secret.

And an investigation was conducted by a Senate select committee after the Abscam matter chaired by Senator Mathias. And one of the conclusions which it came to—and it made a number of references to what the select committee characterized as disturbing examples of the FBI's failure to make minimal efforts to obtain factual representations on which to make a judgment about the reliability of a middle man's assertions of a public official's corrupt nature.

And what they're referring to was that there were middle men who brought in prominent individuals—sometimes senators, sometimes congressman, sometimes others—without having a predicate, as Judge Webster put it, to pursue that individual. And I urge you, and I know your inclination in any event is to be as vigorous as you can be on rooting out corruption. But as a matter of basic fairness, there ought to be a predicate. This is what Judge Webster had commented on.

And I had asked Judge Webster about this standard which the Senate select committee had articulated, and the essence of it was that there be a determination and a finding that there is at least reasonable suspicion based upon articulable facts that the individual has engaged or is engaging or is likely to engage in criminal activity. But you just don't go out at random.

And first I'd like to know if you agree with that kind of an approach.

Judge SESSIONS. Well, first of all, that's a—what I would call a Brignone-Ponce or an Almada-Sanchez approach, where you want to take and define for a reviewer what your reasonable suspicion really is.

I would say that in connection with those investigations, the net was cast, and it wasn't fully clear absolutely. And those cases where there might have been a person who was later indicated to be innocent or not involved was brought in the net and then later exited from the net properly.

Those investigations, as I understand them generally, were very carefully monitored. And it may be that we ought to look more closely at what that reasonable suspicion is and whether it actually exists.

That is not repugnant to my way of thinking at all, Senator.

But I know that it was not a matter of a specific individual being pursued in that context where the net actually brought in the individual.

I don't have any objection to looking at or considering whether the threshold ought to be reasonable suspicion—articulable facts. And I'll discuss it further with you. I have no objection to doing that at all.

Senator SPECTER. Your thought at this moment is that that is a reasonable standard.

Judge SESSIONS. I don't think it's an unreasonable standard. I'm willing to be shown why it isn't a reasonable standard and to discuss it fully.

Senator SPECTER. Well, I would commend that to you.

Judge Webster had suggested that the FBI was using that standard. I think it is an appropriate standard, and it requires a lot of follow-up by the director to make sure that it is observed.

Judge SESSIONS. Well, in that area, Senator, I think when you're trying to interpret what a director's attitude is and how it's translated down through the ranks, I think the very fact that they know and you know and I know that the director will insist upon abiding with the procedures that are outlined and with the guidelines and that there's going to be absolute insistence upon it, that you will be assured that that will happen.

Senator SPECTER. Judge Sessions, I would underscore what Senator DeConcini had commented to you about in terms of the obligation to report covert activities if the findings should come to your attention and to bring it to the Intelligence Committee.

There has been a tremendous problem recently where those in responsible positions who have had an obligation—a direct duty—to make these reports have not done so and where individuals in key governmental positions have testified in a way which is not candid and forthright.

This is a new position for you, but I think we are in an era where there is going to be very heavy congressional insistence on people coming forward and bringing materials to the attention of the Intelligence Committee or other committees which have oversight functions. And whereas some people in the past have made representations which are not factual, there are going to be some of us who are going to be looking for a very tough standard under the provisions of 1001, which, as you know, authorizes a criminal prosecution where false information is made in an official statement.

Speaking for myself, I believe that has been a problem in the past, and I know with your training and your background and your insistence on veracity and fullness, that you will not countenance that. But it's something that really has to stand, not only for the director of an organization like the FBI, but really all down the line and hopefully will spread into some other agencies as well.

Judge Sessions, there are quite a number of other topics which you and I talked about.

My time is just about up in the second and final rounds, and I would certainly commend to you the pursuit of the armed career criminal bill, which moves on career criminals and gives State prosecutors leverage.

You and I have discussed counter-terrorism activities and the FBI rule on extraterritorial jurisdiction and other matters which I commend to your attention.

And let me say that I have been impressed with your responses today and with our meeting yesterday—in a very factual, direct way. And I look forward to working with you in the future.

Judge SESSIONS. Thank you, sir. As do I.

Senator SPECTER. Thank you very much, Judge Sessions. Thank you, Mr. Chairman.

The CHAIRMAN. If you have any more, don't feel—I'd be happy to yield time, if you—I know there are a lot more areas, but I am prepared to yield more time.

Senator SPECTER. Well, if I may have an additional few minutes, Mr. Chairman, I would appreciate it.

The CHAIRMAN. Sure. What I'd like to do is to give you an idea of the rest of the day.

I have a fair number of questions, but I will only spend about 10 to 15 minutes asking them. Others I can give to you in writing. So I will wait until everyone else has finished to ask mine, and you're covering a good part of what I would cover anyway.

Senator SPECTER. Well, I thank you very much, Mr. Chairman. I would appreciate a few more minutes.

You and I had talked yesterday about the use of the armed career criminal bill, and I would like to explore it with you for just a moment or two. It is legislation which—as you and I know but some others might not—provides that anyone who is caught in the possession of a firearm who has been convicted of three or more robberies, burglaries, sale of drugs, or other crimes of violence is subject to prosecution in the Federal court and subject to a mandatory sentence of 15 years to life.

This is a bill which I think provides enormous leverage and help for prosecuting attorneys—district attorneys—who may have hundreds of cases pending against career criminals but have limited ability to bring them into courtrooms and very difficult times getting sentencing—candidly, as I did when I was district attorney of Philadelphia.

The new legislation, which was enacted in 1984, has been used increasingly but could be used even more to provide for Federal prosecutions.

And I would be interested in your thoughts as to the efficacy of this bill and any thoughts you might have as to how it might be implemented by the FBI.

Judge SESSIONS. I think, Senator, it's a very usable tool.

I would indicate to you when the bill passed—became law—I was immediately in consultation with Chief Judge James Lawrence King down in Miami. Because he contemplated that in Miami, which is a handgun capital, that they might well have the Federal courts inundated by prosecutions involving these matters and that there would be a tremendous response.

I do not know and have not heard from Judge King as to what did happen.

I contemplated what would happen in San Antonio because, as you know, the criminal caseload per judge is either second, third, or fourth highest in the country every year consistently. And I wondered what was going to happen to our caseload. So I discussed it with the U.S. attorney, Mrs. Eversberg, and waited and watched.

And I have seen no prosecutions under it, but it strikes me that if in fact I become director of the FBI, I will want to pursue it. Because we know the handgun problem and the automatic weapon problem is tremendous. And being able, by that legislation, to discourage the use of automatic weapons and handguns in connection with the carrying out of crime—that it could be an effective tool. And I'll look forward to that.

Senator SPECTER. Well, I'm glad to hear you say that, Judge Sessions, because my thought is that if you have a city like Philadelphia with about 500 of these career criminals who avoid trial and judge shop ultimately end up with a slap on the wrist in many cases.

And if you were to take a handful—perhaps five—into the Federal court and have mandatory sentences of 15 years to life, there'll be many of the other 495 who will be interested in the guilty plea. They wouldn't end up necessarily 15 years, but they might end up with five to ten or something in a range which would be very useful.

So the more we can activate this career criminal bill—and I think in the FBI you'd be in a key position to do it—I think it would be really very, very useful.

Judge SESSIONS. Well, I think you're perceptive. And I'll explore it. And I'll proceed as I have discussed.

Senator SPECTER. I have introduced legislation which I will send to you, Judge Sessions, which calls for an allocation of 1 percent of our Federal budget—approximately $10 billion a year—to the fight against violent crime.

And we had talked earlier about the potential of the director's office for a significant leadership role in the fight against crime. And you have already stated your view that additional resources are necessary in a number of lines, and I would like you to take a look at the legislation. And I think it would be very useful, given your background as a prosecuting attorney and as a judge in a jurisdiction where there have been significant problems with law enforcement—once you get your feet on the ground—if, as, and when confirmed—to take on a leadership role.

And I know that this committee would be very interested in your views.

And there are tremendous problems in the allocation of resources in the Federal budget. But I think that one percent of the Federal budget or $10 billion directed a year to the fight against violent crime would be a very good investment. It would be cost effective, and it would save many, many times that in property damage, economic losses, and the very protracted pain and suffering which this country suffers as a result of violent crime.

Judge SESSIONS. I look forward to seeing the legislation.

Senator SPECTER. One other subject, and I'll——

The CHAIRMAN. No, go ahead. You're doing great.

Senator SPECTER. Well, I may go on at greater length. [Laughter.]

The CHAIRMAN. Seriously, go on. This is important, and you know this area well. And I think it's useful for all of us.

Senator SPECTER. Okay, fine. Mr. Chairman, I'm pleased to do it.

You have the responsibility—or will have it, if, as, and when confirmed—to be the chair of the National Security Council Interagency Council on Counterintelligence. And this is a field of growing importance with so many problems present in this country and so many problems that are potentially possible.

This capitol complex is a vastly different area than it was 6½, 7 years ago when I came to the Senate. Now when you come in, you have to go through metal detectors. If you want to drive in to the area of the Senate or the House, there are very attractive flower pots which look as if they're ornaments but are really strategically situated to prevent trucks with explosive devices from going in. Large metal items protrude to stop vehicular traffic unless you are cleared. Back in November 1983 on a Monday night where we were expected to be in session and the cloakroom would have been filled with Senators, there was a blast right adjacent to the Republican cloakroom where tremendous damage would have been done.

And this is a growing field of enormous importance, and I wonder what your thoughts are on the issue of counterintelligence and what plans you have, if any, on this important subject.

Judge SESSIONS. Principally to overcome my wealth of ignorance, Senator. Secondly, I am looking forward to being involved in that, and I know the importance and the significance that has been placed in the past on it and the proportion of man hours and woman hours that are devoted to that area in the budget and the work of the FBI. So I will simply look forward to it, and that's all I can really say.

I am aware of the chairmanship of that group, and I of course am not fully aware of my responsibility, but I am sure I will become aware.

Senator SPECTER. Judge Sessions, do you have any view on the propriety of warrantless searches of the property of foreign powers and their agents which, as I understand the law, is currently authorized? And there is quite a continuing debate on whether those warrantless searches ought to be maintained under the President's authority or whether there ought to be a change in law to require that those searches be conducted after warrants have been issued, as warrants are in matters generally involving U.S. citizens.

Judge SESSIONS. You'll need to educate me. As I recall it, the President is not bound by the warrant requirement. That's correct, is it not?

Senator SPECTER. That's correct.

Judge SESSIONS. Otherwise it would be bound by the warrant requirement?

Senator SPECTER. That's correct. Under the current executive order on intelligence, the Attorney General may approve warrantless searches of the property of foreign powers and their agents. And that would include under some circumstances U.S. citizens.

And the Intelligence Committee is studying that matter—has been for some period of time. And if you have a view on it, I would be interested in it now. If this is a matter that you need to study, I could certainly understand that. But it is one which I know the Intelligence Committee as well the Judiciary Committee would like your views on.

Judge SESSIONS. I would choose to provide those comments at a later time, either through the Attorney General or directly to the committee, if that's appropriate.

The CHAIRMAN. Will the Senator yield just on that point?

Senator SPECTER. Certainly. Yes.

The CHAIRMAN. An area that I wish to pursue, and I will not pursue it at this moment.

But to add—understandably, you may not have a view at this moment, but your predecessor, when this issue was pursued in other form over the last several years, had indicated that he thought there would be no problem with such a warrant requirement. It does get to the question of the implied powers of the Presidency.

Judge SESSIONS. Yes. There is also of course the corresponding Foreign Intelligence Surveillance Act of 1978, and those requirements are substantial. They require review, and maybe the warrant requirement would not be unreasonable.

But I would be glad to comment and to study it.

The CHAIRMAN. I would hope that you would. I for one think it is—I agree with Judge Webster and feel, quite frankly, more

strongly about it than Judge Webster felt. I would hope you would look at it closely.

For the record, I think that the 1978 Act, although useful, is not sufficient. But I'll leave it at that.

Senator SPECTER. Well, I would express the view that it is desirable to secure warrants and that as a matter of practice it may slow things up a little but not a whole lot. I've gotten a lot of search warrants in my day, and you have already commented about your concerns for civil liberties, and I thought your answer was a good one that you gave earlier today. And my sense would be that it's desirable to have the warrants—that it doesn't slow up very much, and that it is a useful protection and a useful safeguard.

The CHAIRMAN. Can I add one thing to that, and I will not interrupt again, since you're about to leave this subject, I assume.

I would recommend to you Judge Webster's language, which I think is a reason beyond general principle of warrants being better to have than not have.

The following—in his testimony during the 1979 discussion of a charter for the FBI, which I will want to ask you a little bit about, he said, "History tells us that reliance on inherent authority has been a major contributor to some of the sad events that have been fully chronicled. Reliance on inherent authority presents the all-too-possible risk that a legal authority may not in fact be there."

And I just would suggest to you that the difficulty in obtaining a warrant, in my view, is so small, relative to the abuse that has occurred over the years, that to rely on inherent authority alone for such action is a dangerous continued practice. And that's why I recommend it.

Judge SESSIONS. Well, you should know that I appreciate your view, and I will study it.

The CHAIRMAN. That's all we can ask.

Judge SESSIONS. Thank you, sir.

Senator SPECTER. Judge Sessions, there are two other questions which the Intelligence Committee has a special interest in, and I pose them to you for your reflection: whether you think that the Soviet Union should be barred from occupying its new Mount Alto building—and you might want to comment after you have an opportunity to become more familiar with the opportunities which that elevated building gives them on surveillance; and secondly, whether you think the FBI would have any appropriate role on State Department security, which is a matter which is being considered by the Intelligence Committee and others in the wake of the problems which the Marines have had in the Soviet Union.

One or two other questions—unless you'd like me to yield now, Mr. Chairman.

The CHAIRMAN. No, go ahead. Finish up.

Senator SPECTER. The issue of prisons is a matter of overwhelming importance. It's a subject which you and I touched upon briefly yesterday.

The Federal jails are overburdened at the present time as a result of mandatory sentences and increased crime. There is a distinct likelihood that there will be an increase in demands on prison facilities when the sentencing guidelines are put into operation.

I would be interested—and I am sure others would be—in your views as to what ought to be done, what has to be done by way of additional Federal prison space in this country.

Judge SESSIONS. I don't have any expertise in the area, Senator. I have, over the years, observed for many years the operation of the Bureau of Prisons under the guidance of Norman Carlson. And I think that those people who are knowledgeable would agree with me that in fact he has done a phenomenal job—performed in a phenomenal fashion in connection with improving both the number and the quality of the Federal correctional institutions and the prisons.

I do not know what in fact the guidelines will ultimately be. But I know that it is often the view of the public that they don't understand why we are providing "country-club-type facilities" for convicted criminals. I have never looked on it that way. I don't think anybody—any judge, certainly, who has had to sentence people and knowing that they are going to institutions—could look at it that way.

So I think it's a decision the American people are going to have to make and the Congress is going to have to make as to whether or not you will in fact provide the funding for the adequate facilities. And there will probably have to be more. The advice of Mr. Carlson and consultation with Mr. Carlson could be very meaningful.

Senator SPECTER. Well, Judge Sessions, this is an area where I think your leadership—or your help on leadership—could be very significant.

I made an amendment to the budget a couple of years back to put $100 million of Federal funds into prison construction and got sixteen votes, which isn't too many out of 100, and next year got 34 votes, which is better but still isn't too many out of 100. And didn't do it last year because the climate is so bad.

But this is an area where I think there is going to have to be leadership to get some Federal funding on the prison issue.

I have one other subject, and then I will yield the questioning period. And that is the issue of the fight against terrorism overseas.

And here again, you and I discussed this briefly. But I would commend this as a matter for your review on the use of extraterritorial jurisdiction, which we have utilized as a result of legislation passed in 1984 and in 1986 which makes it a violation of U.S. law now not only to hijack or to kidnap U.S. citizens but also to assault, maim, or murder a U.S. citizen anywhere in the world.

And there is authority from the Supreme Court of the United States going back to 1886 in the case called *Kerr* v. *Illinois,* which upheld a conviction in Illinois where Illinois authorities went to Peru and brought back a defendant without extradition, without his consent, without authorization from Peruvian authorities.

And this is a subject where Secretary of State Shultz has testified, where Attorney General Meese has testified, where Judge Webster has testified in agreeing with the very careful use of extraterritorial jurisdiction.

Perhaps it would serve us to try to gain custody of terrorists without the consent of the host nation where they sponsor terror-

ism or where they are uncooperative and to bring them back to the United States for trial.

We have the illustration of the *Hamadi* case, where we tried to persuade the West Germans to extradite Hamadi so that he could be tried in the United States where we had jurisdiction and indictments. And many of us are concerned about a possible deal now between West Germany and terrorist forces with the release of a West German businessman and some matters going on behind the scenes.

But this use of extraterritorial jurisdiction is a very effective weapon and has great potential, and the FBI has a very significant role to play in it. This is a matter which doubtless you have not had an occasion to study, at least with any depth, and I would commend it to your attention as an area for major FBI involvement.

Judge SESSIONS. Thank you, sir.

Senator SPECTER. Thank you very much.

Mr. Chairman, I thank you very much for the extra time which enabled me to pursue those other areas.

The CHAIRMAN. Thank you. Always happy to do it.

I judge there is a vote on, which means we have about 14 minutes to get there. I think we can finish up with you now so you don't have to come back after the vote.

Judge SESSIONS. Thank you, sir.

The CHAIRMAN. Let me ask you, and the quicker the answer, the quicker the next question will come.

Judge SESSIONS. As to the next four answers—yes, no, yes, no. [Laughter.]

The CHAIRMAN. All right. That takes care of that.

You just said you would not overrule—you would not push to do away with Miranda. Secondly, you would consider an FBI charter. [Laughter.]

The CHAIRMAN. At any rate, I would like to ask you about Miranda.

Judge SESSIONS. Yes, sir.

The CHAIRMAN. Tell me your views.

Judge SESSIONS. Senator, you must know that over the years I have been associated directly with it. And I am familiar also with the general position taken in connection with Miranda and modification of it.

I know that it is always an imposition of initial burden upon law enforcement people, but I am convinced that the burden is an appropriate one. And I am convinced that the ability to be fully warned does not badly damage the ability to investigate. Sometimes you pay very serious consequences, of course.

But by and large, I have agreed totally with the law as it is and will enforce the law as it is.

The CHAIRMAN. Thank you.

Next question: Would you consider bringing top State and local law enforcement officials into policy discussions when you consider programs or initiatives that will have direct impact upon them? Not a requirement, obviously—you have no legal requirement to do so. But would you consider, since as you well know or you will find out, that there—I know you know, as a former prosecutor and as a

judge—that there is sometimes the feeling of the local and State folks being left out. Would you consider bringing them in?

Judge SESSIONS. I am looking forward absolutely to discussing with those forums where those people are assembled a fuller and more complete cooperation. It may be that that will be a discussion item that they would favor, and certainly I will consider it.

The CHAIRMAN. In a recent speech, the assistant FBI director stated that in the next 5 to 7 years the Bureau expects to lose 50 percent of its agent personnel. At that rate of attrition, almost 1,000 agents per year—that's what that translates to. And this is substantially higher than in the past.

One of the most important consequences of this turnover, in my view, is the loss of experienced supervisory personnel, both in headquarters and in the field.

Have you thought about the issue, and what steps would you take to ensure that you have enough experienced supervisors in the FBI to lead an increasingly less-experienced work force—not less qualified—less-experienced work force? Have you thought about that?

Judge SESSIONS. Yes. I have been informed of it only recently.

And of course, that's a shock, but what it also presents is an opportunity, Senator. Because what we're looking at is an invigorated program of recruitment. And I believe what we should do, of course, is pursue those sources of excellent agent recruitment as well as support personnel recruitment.

I would think this: that it's going to be necessary to deal with some of the lower-grade jobs that are in the Bureau in support functions and maybe reclassify them. I think we're going to have to look at maybe higher grades for some persons at the upper echelon in order to get them to stay beyond the time when they might take retirement at age 50 or 51 so that we can maintain that stability.

But I think it's an opportunity, and I intend to attack it.

The CHAIRMAN. Judge, I have about half a dozen to a dozen more questions. I will submit them in writing.

Let me close with this one request—not necessarily a question. I would like the opportunity, either as the chairman of this committee or the ranking chair of this committee or as your president, to convince you that guidelines—written guidelines—for the FBI are appropriate and would save us—and you, who I hope will be there for a full tenure—would save us some difficulty in years to come.

And I'd just like to ask you whether or not, over the period of the next 6 or 8 months while you're becoming acclimated to what is a tremendous job and opportunity, I acknowledge, if you will at some point be willing to sit with me to let me make my case as to why you should consider—not that it will rest with you whether it will or will not happen—but whether you consider the notion that maybe additional guidelines might be worthwhile.

That is not a criticism of this administration or any other. But just codify procedures and requirements.

Judge SESSIONS. Well, without conning you, Mr. Chairman, obviously you have a wealth of experience and knowledge about it and a lot of input. And I'd be honored to receive those opinions.

I will say this: generally we are functioning in the area of Attorney General guidelines, and my input to the Attorney General will

be to review and to try to make those recommendations I believe are appropriate. And your input, I think, will be significant.

The CHAIRMAN. I should be more precise. I'd like to see the guidelines turned into a charter, and that's so that we don't have to be concerned about one Attorney General to the next or one president to the next deciding whether or not there should or should not be certain basic guidelines.

Judge SESSIONS. Well, I believe stability is very important to all of us.

The CHAIRMAN. I yield to my colleague from South Carolina.

Senator THURMOND. Thank you very much.

I think it's well to consider the input of the distinguished chairman. He's a very fine man.

However, I wish you'd also consider the view of the Justice Department and work with them, too. I'm sure you would.

Judge SESSIONS. Yes, sir.

Senator THURMOND. I don't think I have any other questions. I only wish you well in the position to which you have been appointed.

I feel certain you'll be confirmed, and any way we can cooperate with you, I want you to feel free to call upon us.

Judge SESSIONS. Thank you, Senator.

Senator THURMOND. I'll tell Judge Simons you made a good impression, just as he said you would.

Incidentally, his wife is very ill at this time—Jean.

Judge SESSIONS. Please give him and his wife my best regards, and Senator, thank you for your kindness. I appreciate it.

The CHAIRMAN. Thank you, Senator.

And we mean what we say, Judge, both my chairman and I.

In the past this has worked very well. We have had a very good relationship with the agency. And we are here. It's not like that old joke, "I'm from the Federal Government, and I'm here to help." Well, we are here to help. You'll find that you have two people—at least for the time being—running this committee who have, I think, seldom ever turned down a request for help, whether it's been budgetary or otherwise from the agency.

And we just expect candor in return. I am confident you will provide that.

I thank you and your wife and your daughter.

I have additional questions for the record submitted by Senator Simon and some from Senator Hatch. Obviously, it's a lot of work. But if you could get them answered as quickly as you can, and it is my hope and expectation that we will be able to vote on your nomination very early next week.

And it is my hope and expectation we will work together for a long time with you as the director.

Senator THURMOND. If the distinguished chairman should be elected president and you have any trouble with him in the future, just get in touch with me. [Laughter.]

Judge SESSIONS. I will track you down, Senator.

The CHAIRMAN. You don't know how true that comment is. I've never been able to resist the Senator from South Carolina. We agree on so much.

Judge SESSIONS. Mr. Chairman, may I express my thanks to the committee in its entirety and the staffs. The persons who have contacted me throughout this entire matter have been totally cordial and totally helpful, and I appreciate it.

The CHAIRMAN. Well, it's easy, Judge, when you have a man of your calibre. I'm serious—you're a hell of a guy, and that's presumptuous of me to say that. But truly, you are. Your background is such—you've shown a lot of courage in addition to good judgment.

Thank you very much.

Senator THURMOND. I understand—excuse me just a second—I understand there are a number of law enforcement agencies that are going to testify here.

I've got another engagement that I've got to go to, and I may not get back. But I want to express my appreciation to these law enforcement agencies. They have been so helpful in the past in testifying at these nominations, and I just want you know whether I'm here or not that I gladly thank you for coming and testifying in behalf of this nominee we have here today.

Senator Biden, I want to thank you for promptly holding this hearing and the manner in which you have expedited on this occasion.

The CHAIRMAN. Thank you very much.

Senator THURMOND. I feel sure you'll do the same thing with the Bork hearing.

The CHAIRMAN. I hope my point of view prevails as well there as it has here.

Let me thank you again, Judge. You're excused.

Judge SESSIONS. Thank you, sir.

The CHAIRMAN. Now, before—you go ahead, Judge. I just want to announce to everyone before I leave for the vote. I'll be back in about 7 minutes. We will have two panels, both in support of the judge—Chief Casey, Mr. Stephens, Dr. Scott, and L. Cary Bittick in the first panel. The second panel will be Sterling Epps, Robert Fuesel, Mario Moreno. And the Fraternal Order of Police will submit a written report.

We are recessed for 10 minutes.

[Brief recess.]

The CHAIRMAN. Panel come to order.

Thank you for your indulgence. Sorry for the interruption of the vote, and thank you all for taking the time to come and testify. As you've probably observed by now, I say for the first panel and for the second waiting to testify, there is a bit of unanimity on this nomination.

We welcome your testimony, but to the extent that you can summarize it, we'll put it all in the record, and limit yourself to 5 minutes, I would appreciate it very much.

Our first member of the panel is Chief Joe Casey, first vice president of the International Association of Chiefs of Police, and Joe, you're going to be what some of us would like to be, the next president of the largest police group in America. I believe there are about 15,000 of you.

Chief CASEY. Yes, sir. I believe if the good Lord's willing, that will come about the 28th day of October.

The CHAIRMAN. And you are from Nashville?

Chief CASEY. Yes, sir.

The CHAIRMAN. And I welcome you here. And then we have Darrel Stephens, executive director of Police Executive Research Forum. Mr. Stephens' organization includes all the largest city police chiefs, and it is recognized as one of the progressive and responsible police organizations and has worked well and diligently to improve professionalism in law enforcement and has been a great contribution.

Also Dr. Scott, executive director of the National Organization of Black Law Enforcement Executives. I realize that your testimony will highlight statistics that point to the low number of blacks in the executive positions in the FBI, and I am looking forward to hearing what you have to say about that.

L. Cary Bittick, executive director of the National Sheriffs Association. We've not had much contact with the association of late, but there are 35,000 of you, and in my part of the country, if you want to know what's happening in the county, you go to the sheriff, and to put it very bluntly, if you want to get elected, you go to the sheriff, so I'm delighted you're here, sheriff. Representing the Sheriffs Association, I should say.

Why don't we start in the order I've introduced you, and as briefly as you can make your statements, I'd appreciate it.

STATEMENT OF A PANEL CONSISTING OF CHIEF JOE CASEY, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE; DARREL STEPHENS, POLICE EXECUTIVE RESEARCH FORUM; DR. ELSIE SCOTT, NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES; AND L. CARY BITTICK, NATIONAL SHERIFFS ASSOCIATION

Chief CASEY. Thank you, Mr. Chairman, and, of course, distinguished members of the committee. It's a privilege for me to be here today. As you've stated, I am Chief Joe D. Casey, first vice president of the International Association of Chiefs of Police. I am also the chief of police in Nashville, TN, which I'm very proud of.

The International Association of Chiefs of Police is a professional organization comprised of over 14,500 top law enforcement executives from the United States and 68 nations. I.A.C.P. members lead and manage several hundred thousand law enforcement officers and civilian employees in international, Federal, State, and local governments.

Members in the United States direct the Nation's largest city police departments, including New York City, Los Angeles, Chicago, Detroit, Houston, and others, as well as suburban and rural departments throughout the country.

I.A.C.P. sees the director of the FBI as the most visible and influential law enforcement position in the United States and, in fact, the world. I.A.C.P. has enjoyed very good working relations with the FBI over the years.

After reviewing all the available information, we firmly believe that Judge Sessions is extremely qualified for the position and will provide the leadership to see that the good working relationship continues.

On behalf of the I.A.C.P. membership, I would like to express our sincere appreciation for providing us the opportunity to appear before this committee to offer our unqualified endorsement of Judge William S. Sessions for the position of Director of the Federal Bureau of Investigation.

[The statement of Chief Joe Casey follows:]

TESTIMONY BY

THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

CONCERNING CONFIRMATION OF

DISTRICT JUDGE WILLIAM S. SESSIONS

AS DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE COMMITTEE, MY NAME IS JOE D. CASEY AND I AM FIRST VICE PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE (IACP), AS WELL AS THE CHIEF OF POLICE FOR NASHVILLE, TENNESSEE.

THE IACP IS A VOLUNTARY PROFESSIONAL ORGANIZATION ESTABLISHED IN 1893. IT IS COMPRISED OF OVER 14,500 TOP LAW ENFORCEMENT EXECUTIVES FROM THE UNITED STATES AND 68 NATIONS. IACP MEMBERS LEAD AND MANAGE SEVERAL HUNDRED THOUSAND LAW ENFORCEMENT OFFICERS AND CIVILIAN EMPLOYEES IN INTERNATIONAL, FEDERAL, STATE AND LOCAL GOVERNMENTS. MEMBERS IN THE UNITED STATES DIRECT THE NATION'S LARGEST CITY POLICE DEPARTMENTS INCLUDING NEW YORK CITY, LOS ANGELES, CHICAGO, DETROIT, HOUSTON, AND OTHERS, AS WELL AS SUBURBAN AND RURAL DEPARTMENTS THROUGHOUT THE COUNTRY. THROUGHOUT ITS EXISTENCE, THE IACP HAS STRIVEN TO ACHIEVE PROPER, CONSCIENTIOUS AND RESOLUTE LAW ENFORCEMENT. IN ALL OF ITS ACTIVITIES, THE IACP HAS BEEN CONSTANTLY DEVOTED TO THE STEADY ADVANCEMENT OF THE NATION'S BEST WELFARE AND WELL-BEING. IT IS FOR THAT REASON THAT I APPEAR BEFORE YOU TODAY TO VOICE NOT ONLY MY OPINION BUT THE VIEWS OF THE VAST MAJORITY OF THE ASSOCIATION'S MEMBERS AS WELL AS OF THE MAJORITY OF THE LAW ENFORCEMENT COMMUNITY.

ON BEHALF OF THE ASSOCIATION MEMBERSHIP, I WOULD LIKE TO EXPRESS OUR SINCERE APPRECIATION FOR PROVIDING US THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE TO OFFER OUR UNQUALIFIED ENDORSEMENT OF JUDGE WILLIAM S. SESSIONS FOR THE POSITION OF DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION. WE BELIEVE THAT HIS PROVEN DEDICATION TO LAW ENFORCEMENT AND TO THE IMPROVEMENT OF OUR CRIMINAL JUSTICE SYSTEM UNIQUELY QUALIFIES JUDGE SESSIONS TO ASSUME THE DUTIES OF THAT OFFICE.

JUDGE SESSIONS'S REPUTATION IS WELL KNOWN THROUGHOUT THE CRIMINAL JUSTICE AND LAW ENFORCEMENT COMMUNITY. HE HAS ALWAYS BEEN THE VERY MODEL OF A FEDERAL JUDGE AND AN EXCELLENT ADMINISTRATOR IN HIS ROLE AS THE CHIEF JUDGE OF THE DISTRICT ENCOMPASSING WEST TEXAS. HE IS A JUDGE WHO DEMANDS RESPECT AND DECORUM; A JUDGE WHO BELIEVES THAT OUR LAWS ARE PASSED IN THE BEST INTERESTS OF OUR CITIZENS AND, THEREFORE, SHOULD BE ENFORCED. HE HAS BEEN REFERRED TO AS A

"LAW AND ORDER JUDGE AND A NO-NONSENSE ADMINISTRATOR." MOST IMPORTANTLY, THE JUDGE IS CHARACTERIZED BY ALL AS A FAIR, DECENT, AND HONORABLE MAN. THE LAW ENFORCEMENT COMMUNITY COMMENDS JUDGE SESSIONS FOR THESE QUALITIES AND CHARACTERISTICS. WE FEEL THAT IT IS THESE SAME QUALITIES WHICH WILL PRODUCE GREAT SUCCESS FOR HIM IN THE ROLE OF FBI DIRECTOR AND CONTINUE THE LEGACY LEFT TO HIM BY JUDGE WEBSTER.

I CERTAINLY DO NOT NEED TO LECTURE THIS COMMITTEE OR THIS CONGRESS ON THE SEVERITY OF THE CRIME PROBLEM IN THIS COUNTRY. JUDGE SESSIONS'S VAST AND VARIED EXPERIENCE IN THE CRIMINAL JUSTICE SYSTEM HAS GIVEN HIM THE BACKGROUND TO DEAL WITH THE FBI'S ROLE IN THE INVESTIGATION AND PROSECUTION OF CRIME IN OUR COUNTRY. WHILE DEPUTY ASSISTANT ATTORNEY GENERAL IN THE JUSTICE DEPARTMENT'S CRIMINAL DIVISION, HE PROSECUTED ALL MANNER OF CRIME, INCLUDING POLITICAL CORRUPTION, ELECTION FRAUD, AND DISTRIBUTION OF PORNOGRAPHY . THE JUDGE CONTINUED THESE TYPES OF PROSECUTIONS DURING HIS TENURE AS UNITED STATES ATTORNEY IN SAN ANTONIO. HE HAS BEEN RELENTLESS IN HIS PURSUIT OF MAJOR DRUG TRAFFICKERS AND HAS PIONEERED IN THE USE OF SOPHISTICATED INVESTIGATORY TECHNIQUES WHICH LAW ENFORCEMENT NOW KNOWS TO BE MANDATORY IN THE FIGHT AGAINST ORGANIZED CRIME.

MOST IMPORTANTLY FOR OUR MEMBERSHIP AND THE LAW ENFORCEMENT COMMUNITY IN GENERAL, JUDGE SESSIONS BELIEVES THAT A TOP PRIORITY FOR THE CRIMINAL JUSTICE SYSTEM SHOULD BE MORE COOPERATION BY FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT AGENCIES IN SHARING INFORMATION, EXPERIENCE AND RESOURCES. THE LAW ENFORCEMENT COMMUNITY HAS LEARNED THAT ONLY THROUGH COOPERATION OF THIS NATURE CAN WE SUCCESSFULLY FIGHT CRIME, ESPECIALLY THE ORGANIZED CARTELS WHICH CONTROL MUCH OF THE CRIMINAL ACTIVITY IN THIS COUNTRY TODAY. COORDINATION AND COMMUNICATION BETWEEN AGENCIES HAS BECOME ABSOLUTELY NECESSARY TO PRESERVE DWINDLING RESOURCES AND TO AVOID COSTLY DUPLICATION OF EFFORTS. IN HIS ROLE AS DIRECTOR OF THE FBI, JUDGE SESSIONS WILL BE ABLE TO FACILITATE THE PROCESS OF ESTABLISHING AND SOLIDIFYING THIS COORDINATION.

IN SHORT, JUDGE SESSIONS IS A MAN OF PROVEN ABILITY, WITH THE REQUISITE CREDENTIALS AND EXPERIENCE, WHO UNDERSTANDS THAT THE WAR ON CRIME IS MOST SUCCESSFULLY FOUGHT THROUGH THE COOPERATIVE EFFORTS OF FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT AGENCIES. WE AT IACP AND IN THE LAW ENFORCEMENT COMMUNITY LOOK FORWARD TO HIS DYNAMIC LEADERSHIP AT THE FEDERAL BUREAU OF INVESTIGATION.

THANK YOU.

The International Association of Chiefs of Police is a professional organization comprised of over 14,500 top law enforcement executives from the United States and 68 nations. IACP members lead and manage several hundred thousand law enforcement officers and civilian employees in international, federal, state and local governments. Members in the United States direct the nation's largest city police departments including New York City, Los Angeles, Chicago, Detroit, Houston and others, as well as suburban and rural departments throughout the country.

Since 1893, the IACP has facilitated the exchange of important information among police administrators and promoted the highest possible standards of performance and conduct within the police profession. This work is carried out by functionally oriented committees consisting of police practitioners with a high degree of expertise that provide contemporary information on trends, issues and experiences in policing for development of cooperative strategies, new and innovative programs and positions for adoption through resolution by the association.

Throughout its existence, the IACP has been devoted to the cause of crime prevention and the fair and impartial enforcement of laws with respect for constitutional and fundamental human rights.

The CHAIRMAN. Thank you very much, Chief. Mr. Stephens.

Mr. STEPHENS. Mr. Chairman, I appreciate the opportunity to speak to you today on behalf of the members of the Police Executive Research Forum.

Our members our police chiefs and sheriffs in the Nation's largest jurisdictions, who are dedicated to the improvement of police service through research and public debate on issues of national importance to law enforcement. The communities of our members are the areas of the Nation where the most dramatic effects of crime and disorder are felt. These are also areas where the greatest concentrations of FBI resources are located, and where the greatest amount of interaction takes place between Federal, State, and local law enforcement. Therefore, the appointment of the new FBI Director is of major importance to our members.

We conducted a poll of our membership in March of this year concerning this appointment. The poll sought input on the characteristics the new director should poses, and the priority issues that we felt should be brought to his attention. The results of the poll indicated the person should have a high degree of personal integrity, law enforcement experience, be politically independent, and an effective communicator.

Judge William Sessions meets all of these qualifications and exemplifies what the new director should be. He has served in the Criminal Division of the Department of Justice. He has been a U.S. attorney, and for the past 13 years has served as a Federal district judge. He is described by those who know him as a man who is tough but fair, who is devoted to safeguarding constitutional rights, and has a high degree of personal integrity. On the bench, he maintains the proper courtroom decorum without resorting to the overbearing arrogance of some judges. Off the bench, he is described as an easy-going man with a quick laugh. Judge Sessions seems to be the type of person that possesses the qualities necessary to assume this most important job of Director of the FBI.

Our poll also indicated that our members felt that is important that the new FBI Director have a vision of the future, be sensitive to the role of the FBI in the law enforcement community, and a commitment to maintain and strengthen relationships with State and local law enforcement. This appointment is for 10 years, and will take us to the threshold of the 21st century. The FBI has historically served in a leadership role in law enforcement, and it is important that the new director look to the future of filling that leadership role. Actions taken today are critical in our preparation for dealing with the problems of tomorrow.

White-collar crime, for example, is growing, and we expect it will become an even greater problem in the future. The FBI is in a unique position to deal with this problem, and can have an even greater impact through the training programs available to local law enforcement, and by continuing to emphasize this area in their resource planning for the future.

Another issue of major importance for the new director is the maintenance and strengthening of relationships with State and local law enforcement. This is a difficult but important ongoing task. It must be approached from the perspective of equal partners

combining strength to deal with the problem of crime which touches every citizen in our country.

More and more we are finding individual citizens and businesses turning away from public law enforcement to private alternatives in order to gain a sense of security in their daily lives. We must provide our citizens with a sense of security that is responsive to their fears of crime. There must be a close and continuing working relationship on the part of law enforcement officials at all levels of government if we expect to deal with these problems of today and the future. The FBI and its director play a critical role in this response to this complex and multi-faceted problem of crime.

Perhaps the most critical aspect of that role is the promotion of relationships between all levels of law enforcement that makes the achievement of common objectives more important than who gets the credit. I thank you for the opportunity to share the views of our membership with you today and would be happy to answer any questions that you may have.

[The statement of Darrel Stephens follows:]

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE

ON

THE NOMINATION OF THE HONORABLE JUDGE WILLIAM SESSIONS

FOR THE

DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

Presented By:

Police Executive Research Forum

Darrel W. Stephens

Executive Director

September 10, 1987

Mr. Chairman, Members of the Committee. I appreciate the opportunity to speak to you today on behalf of the members of the Police Executive Research Forum. Our members are police chiefs and sheriffs from the nations largest jurisdictions who are dedicated to the improvement of police service through research and public debate on issues of national importance to law enforcement.

It is in the cities and counties of the Forum's members where the most dramatic effects of crime and disorder can be felt. It is also in these urban and suburban areas of our nation that the major concentrations of Federal Bureau of Investigation resources are located, and where the greatest level of interaction takes place between federal, state and local law enforcement. These factors considered, it is not surprising that the appointment of the Director of the FBI of critical importance to all members of the Forum. In fact, the importance of this appointment prompted us to conduct a telephone poll of over half of our membership in March of this year . The poll was conducted to solicit the views of our members to determine the characteristics they feel the next director of the FBI should possess, and to identify priority issues for the new director that concern those from the state and local level.

The results of this poll indicated that the person appointed should have a high degree of personal integrity, law enforcement experience, be politically independent, and be an effective communicator.

Judge William Sessions meets all of the requisite qualifications set by our membership and exemplifies what a new director should be. He

has served in the Criminal Division of the Department of Justice. He has been a United States Attorney and for the past thirteen years he has served as a Federal District Judge. He is described by those who know him as being a man who is "tough but fair" , devoted to safeguarding constitutional rights, and with a high degree of personal integrity. On the bench he maintains the proper courtroom decorum "without succumbing to the overbearing arrogance of some judges." Off the bench is is described as "an easy going man with a quick laugh." A sense of humor is important in law enforcement. It helps one keep from being overwhelmed by the seemingly endless tragedies the police encounter. Judge Sessions seems to be the type of person that possesses the qualities and standards befitting one who is capable of assuming the job of FBI Director.

Our poll also indicates that Forum members feel it is important for the new FBI director to have a vision of the future, be sensitive to the role of the Bureau in the law enforcement community, and to maintain and strengthen relationships with state and local law enforcement. These are issues of major importance to law enforcement officials throughout our nation.

Another important factor is that this appointment will take us to the doorstep of the twenty-first century. It is a ten year appointment and should be viewed in the context of the future. The FBI has historically assumed a leadership role in law enforcement and will continue to do so as long as the emphasis on state and local training continues, as we believe it should. Therefore it is important that the new director look to the future. The type of leadership exercised today

is critical in our preparation for dealing with th problems of tomorrow. Georgette Bennett in **CRIMEWARPS** says:

> In the future when crime strikes, it could well be less violent, less personal, more tricky, and more profitable. **The criminal will be older, more sophisticated. And so will the victim.** As the population ages, we can expect more crimes like the credit card fraud that ensnared Robert Nascimben and several Houston banks. White-collar crimes are usually committed by older, "respectable" criminals against older, more affluent victims. ...we can expect the rate of white-collar crime to grow...
>
> White-collar crime isn't the sole province of individuals. Business entities are voluminous offenders. (Bennett, 1987)

Clearly this is an issue of major importance to the FBI and its new director. The FBI currently has about 1400 agents assigned to investigating white-collar crimes. They must continue to exercise strong leadership in dealing with these offenders as the FBI is uniquely qualified to address this problem. As the criminal continues to become more sophisticated it will be necessary for the FBI to exert an even greater presence because of the jurisdictional issues raised by this type of crime and the type of training that will be required for state and local law enforcement personnel to meet these demands.

Another issue of major significance for the new director will be the maintenance and strengthening of relationships with state and local law enforcement. This is a difficult, but important on-going task. It must be approached from the perspective of equal partners combining strengths to deal crime that touches every citizen in our nation. More and more we are finding individual citizens and businesses turning away from public law enforcement to private alternatives in order to gain a sense of

security in their daily lives. We must provide our citizens with a sense of security that is responsive to their fear of crime. There must be close and continuing cooperation on the part of law enforcement officials at all levels of government if we expect to deal with the crime problems of today and those of the future. The FBI and its director play a critical role in the response to this complex and multi-faceted problem of crime. Perhaps the most critical aspect of that role is the promotion of relationships between all levels of law enforcement that makes the achievement of common objectives more important than who gets the credit.

I thank you for the opportunity to share the views of the Police Executive Research Forum with you today concerning this important appointment. I would be happy to answer any questions you may have.

The CHAIRMAN. I thank you. Ms. Scott.

Dr. SCOTT. Thank you, Mr. Chairman. I am representing the National Organization of Black Law Enforcement Executives. This is a membership organization that is made up of command-level law enforcement officials from local, State, and Federal agencies. Within our membership are many of the people that comprise Darrel Stephens' organization, as well as the I.A.C.P. Chief Casey mentioned New York City, Chicago, Houston, Baltimore, Detroit. All of those chiefs are members of the National Organization of Black Law Enforcement Executives. We also have included within our membership Federal supervisory agents, including 17 special agents in charge of district offices and divisions.

We welcome this opportunity to appear before this committee, and we whole-heartedly support the confirmation of Judge Sessions as Director of the FBI. There are a few concerns that my Federal caucus and my executive board have asked me to call to the attention of this committee that we would like to see become a part of the FBI agenda.

We have worked very closely with the FBI in the past, and we feel good about some of the efforts that have been put forth by Judge Webster under his tenure as FBI, and we would like to see those efforts continue, particularly in the area of Federal-local cooperation.

Our local chiefs of police and our local command-level law enforcement officials are very much concerned about continuing the cooperative relationship that has been developed during the past few years between the FBI and local law enforcement, both in the area of crime-fighting and drug enforcement.

This is especially important because many of our local jurisdictions are suffering from cutbacks that have been brought on by cutbacks due to Gramm-Rudman-Hollings and decline in city tax-base. And at the same time, many of our local law enforcement agencies are challenged with new weapons that are out there, new criminal strategies, new criminals, as well as an ever-increasing drug problem.

Local law enforcement would like to feel that they are not alone, that they can depend on Federal agencies for assistance and information-sharing.

The other two concerns that I would like to bring to attention today deal with the role of black agents and the promotion and recruitment of black agents within the FBI.

Under Judge Webster's tenure, he's put forth a good recruitment program, and he has significantly increased the number of black agents within the FBI. Yet, blacks make up only 4 percent of all agents. This percentage is lower than in some other Federal law enforcement agencies, and significantly lower than the percentage of blacks in the population.

I understand there was some testimony this morning, and there was a statement by Judge Sessions that supported the need for recruitment of minorities and women within the FBI. We are especially concerned about the recruitment of blacks within the FBI, because black males were admitted to the Bureau before females were allowed to join, yet white females now make up 7 percent of the agents, compared to only 3.5 percent males. Black females only

comprise a 0.5 percent of all agents. And we would urge the incoming director to make this a priority item.

The third area we would like to mention today is the advancement of blacks through the ranks. And this is one of NOBLE's objectives. Official statistics were not available to us that broke down the number of black supervisors by rank and division. However, our Federal caucus has informed us that most of the black agents within the FBI are concentrated in the lower ranks of the FBI, and that most black supervisors are first-line supervisors.

We would like to see affirmative steps taken to assign young agents to areas and divisions that lead to promotional opportunities, not just to undercover work in black communities, and to advance black supervisors beyond the first level.

Each of these areas should be given careful attention by the incoming director. NOBLE supports the appointment of Judge Sessions. We are very pleased with what we have heard here today, and we are ready to work with him in developing programs and implementing programs. Thank you, Mr. Chairman.

[The statement of Dr. Elsie Scott follows:]

NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES

President
HAROLD JOHNSON
Public Safety Director
Highland Park, MI P.D

Immediate Past President
GEORGE NAPPER
Public Safety Commissioner
Atlanta, GA

National Vice President
RONALD D. NELSON
Chief of Police
Berkeley, CA P.D

Region 1 Vice President
DONALD C. BURTON
Undersheriff
Camden Co. (NJ) Sheriff's Dept

Region 2 Vice President
MARCELLUS BOLES
Major
Baltimore, MD P.D

Region 3 Vice President
MOSES ECTOR
Special Agent-in-Charge
G.B.I. Thomaston, GA

Region 4 Vice President
EDWARD C. BROOKS
Deputy Chief
Chicago, IL P.D

Region 5 Vice President
SYLVESTER JONES
Chief of Police
Northwoods, MO P.D

Region 6 Vice President
DAN NELSON
Chief of Police
E. Palo Alto, CA P.D

Corresponding Secretary
LARRY C. BOLDEN
Deputy Chief
Las Vegas, NV P.D

Treasurer
BILLY NORWOOD
Chief, Protective Services
D.C. Government

Financial Secretary
G. HELENA ASHBY
Captain
L.A. Co. Sheriff's Dept

Sergeant-At-Arms
ROBERT F. FAISON
Inspector (Ret.)
U.S. Secret Service

Parliamentarian
STEVE BOWSER
Public Safety Director
Atlanta University Center

ELSIE L. SCOTT, Ph.D.
Executive Director

O'NEAL O. WRIGHT
General Counsel

Testimony of Elsie L. Scott, Executive Diretor
National Organization of Black Law Enforcement Executives
Before the Senate Judiciary Committee
September 10, 1987

Mr. Chairman, and members of the Committee, I am representing the National Organization of Black Law Enforcement Executives (NOBLE), a membership organization made up of command level law enforcement officials from local, state, and federal agencies. Included within the membership are a number of chiefs of police, including ten big city chief executives and federal supervisory agents, including seventeen special agents-in-charge of district offices or divisions. We welcome the opportunity to appear before you to support the confirmation of Judge William S. Sessions as director of the FBI.

While our appearance here today is to support Judge Sessions' nomination, we would like to take this opportunity to express some of NOBLE's concerns that should be addressed by the incoming FBI director. Our concerns fall in three areas: cooperation of FBI with local law enforcement agencies, the recruitment and hiring of black agents, and the advancement of black agents within the bureau.

Under Judge Webster's tenure as FBI director, there was support for federal cooperation with local law enforcement in crime fighting and drug enforcement. We would like to see that cooperation continued and strengthened. This cooperation is especially important since many local agencies are suffering from cutbacks brought on by Gramm-Rudman-Hollings and declining city tax bases, while at the same time, they are being challenged by new weapons and criminal strategies and an ever increasing drug problem. Local law enforcement executives need to feel that they are not alone, that they can depend on federal agencies for assistance and information sharing.

The second area of concern relates to one of NOBLE's objectives: to increase the number of black law enforcement officials at all levels. We feel that

the proportion of sworn personnel who are black should be equal to the percentage of black population or blacks in the work force. A few cities have reached parity, but federal law enforcement agencies are still lagging behind.

Black law enforcement officials have distinguished themselves in a number of roles. Affirmative action programs and plans have successfuly increased the ranks of law enforcement with qualified personnel who otherwise would not have had the opportunity to demonstrate that blacks can carry out law enforcement assignments besides undercover work in black communities.

We applaud the efforts began by Judge Webster to increase the number of black FBI agents. Recruitment efforts initiated during his tenure significantly increased the number of black agents, yet blacks make up only 4 percent of all agents. This percentage is less than the percentage found in some of the other federal law enforcement agencies and significantly less than the percentage of blacks in the population. Black males were admitted to the Bureau before females were allowed to join, yet, white females now make up 7 percent of the agents compared to only 3.5 percent black males. Black females only comprise .5 percent of all agents. We urge the incoming director to make the increase in black agents a priority item.

The third issue-the advancement of blacks through the ranks-is also one of NOBLE's objectives. Official statistics that include a breakdown of the percentage of black supervisors by rank and division are not available. Nevertheless, information provided by NOBLE's federal caucus shows that most black agents are concentrated in the lower ranks of the FBI and that most black supervisors are first line supervisors. We would like to see affirmative steps taken to assign young agents to areas and divisions that lead to promotional opportunities and to advance black supervisors beyond the first level.

Each of these three areas should be given careful consideration by the incoming director. NOBLE is ready and available to work with him in program development and implementation.

Thank you Mr. Chairman.

The CHAIRMAN. Thank you very much, Ms. Scott. Mr. Bittick.

Mr. BITTICK. Mr. Chairman, I'd like to thank you for the opportunity to appear today. I'd like to also thank Scott Green of the staff for his help in preparing us today.

We are a 35,000 membership strong organization representing the sheriffs of the United States, as well as a good number of police agencies around the country. We endorse Judge Sessions for this appointment.

Having been a sheriff 22 years before taking this job 5 years ago, I worked very closely with all the Federal agencies, especially the FBI and Alcohol-Tobacco Tax, coming from Georgia, and our working relationship was always very strong with them.

Judge Webster has increased that ability to be able to work with the FBI since he's been there, and I'm sure from talking to the sheriffs in Texas, that Judge Sessions is going to do the same thing. We whole-heartedly endorse him.

I have submitted a written testimony to the committee and would appreciate your consideration of that.

[The statement of L. Cary Bittick follows:]

TESTIMONY

OF

L. CARY BITTICK
EXECUTIVE DIRECTOR,
NATIONAL SHERIFFS' ASSOCIATION

Chairman Biden and Members of the Judiciary Committee:

I want to thank you for your kind invitation to speak to you about the nomination of Judge William Sessions for the position of Director of the Federal Bureau of Investigation.

Before commenting on Judge Sessions, I would like to introduce myself and tell you about the organization that I am here to represent.

My name is L. Cary Bittick. I am the Executive Director of the National Sheriffs' Association. Prior to this appointment, I was the Sheriff of Monroe County, Georgia for 22 years.

I am here today to represent the 35,000 members of the National Sheriffs' Association, including our nation's 3,100 sheriffs. Sheriffs, as you know, have many responsibilities in our criminal justice system -- including law enforcement and the administration of our jails. Because of the sheriff's role in enforcing state and local laws and running the local jails, there are many occasions where the sheriff's job is impacted by the actions of the Federal Bureau of Investigation. For this reason, I have requested to speak to you about Judge Sessions.

I am pleased to tell you that everything I have heard about Judge Sessions is positive and the National Sheriffs' Association recommends that you confirm his nomination.

While I have no personal knowledge or experience in working with Judge Sessions, I offer this recommendation based on information that I learned from speaking with

our Texas sheriffs and through the reputation he has gained after many years in public service. In speaking with the sheriffs I can tell you that everyone had a positive comment on the Judge's appointment to this position -- either because of the Judge's professional experience or his personal record. By all accounts he has a reputation for fairness, decency and for being tough on crime.

I know that when Judge Sessions was introduced by Attorney General Meese at a press conference on July 24, 1987, he fielded questions from the press which I think bode well for the nominee. I am going to discuss briefly some of the comments made by Judge Sessions during that meeting because I feel they illustrate why this man has earned the support of the National Sheriffs' Association:

• When asked by a reporter about his reputation for being a "West Texas tough guy" on criminals, the Judge responded that he thought that was "delightful."

I, for one, would be pleased to see an FBI Director who has a reputation for being tough on criminals. I think this is very positive for a man in that position. I'd be worried if the President had nominated a man to head up the FBI that had the reputation of being "soft" on crime!

• During the press conference with the Attorney General, the Judge indicated his concern over the problems of drugs and immigration. I am pleased that Judge Sessions mentioned these problems as these are a priority for local law enforcement officials. The National Sheriffs' Association has long been concerned about these two critical problems, and along with the Congress, we have been working to find solutions that would enhance community safety and security. I feel confident that because of the Judge's concern over these issues, we will be able to work closely with him on such matters.

• In response to questions about why he was attracted to the job as Director of the FBI, Judge Sessions made

some insightful comments about his view of the FBI and its mission. He said that he wanted to be associated with the FBI because of what it stands for--integrity, purpose, and protecting American lives and property. I believe that, all of us in local law enforcement, have that opinion of the FBI and I feel its encouraging to have the nominee feel so highly about that agency.

In addition to the comments I have heard from the Texas sheriffs and the reputation the Judge has earned, I believe Judge Sessions' education and professional experience contribute positively. The Judge earned a Bachelor Degree and Juris Doctor Degree from Baylor University. He has worked in several different positions in the criminal justice system--he has served in the U.S. Department of Justice, Criminal Division; the U.S. Attorney's Office; and, as the Chief U.S. District Judge.

On behalf of the National Sheriffs' Association, I recommend Judge Sessions to you for this important position and want to let you know how pleased the sheriffs would be to work with him in tackling the tough crime probelms that face all of us in law enforcement -- local, state and federal officials alike.

Thank you.

The CHAIRMAN. I appreciate all of you coming. I thank you, Sheriff. Your testimony will be placed in the record as if read in whole.

Let me just make a suggestion. I have questions, but I don't know that they're worth asking, because I know we all basically agree on this. I hope some of you were here when I asked the Judge whether or not as Director he'd be prepared to bring you in on the planning stages of new initiatives. I took him to mean what he said and was sincere when he said he would. But he's going to be a very busy man when he gets in there. I believe he means what he says, but I believe that you and I are going to have to take the initiative to move that.

I've worked closely with several of your organizations and you know my major thrust has been to get local and Federal cooperation, more local assets, more Federal money for local efforts, and this is all part of, we're going to have to work, we have an opportunity.

I agree with you that Judge Webster was good. I believe that we can build on that, but I urge you, in the cooperative vein you've expressed here today, and that he expressed, to take the initiative, and I can assure you, as Chair of this committee, you have an ally in that effort.

As you know, working through my staff and with me, we've been together in these efforts in the past with Judge Webster. I think we should make a decided effort, as undoubtedly there will be some new initiatives and changes as every new director will bring about, but now is the time for us to get involved in that process.

So I urge you to literally, it's presumptuous of me to suggest, but literally go right to the Director on Tuesday when he is confirmed, I hope, and say, Director, thanks for the invitation; tell me when you want me. I mean that sincerely. I'm not being facetious.

Thank you all very, very much, and most of all, while I have you all here, thank you for the phenomenal help you've been to Senator Thurmond and I the last 7 years in particular. You've always been there. You helped us with the crime bill; you helped us with the sentencing bill; you helped us with the cop-killer bill; you helped us with every major initiative wherever there has been resistance, and you've all been unified. We've put aside politics, Democrat-Republican, and we've worked together. And I really, I mean this sincerely, I give credit to the local and State police organizations, more than I do any other sector of law enforcement in this country for the progress that we've been able to make at a Federal level. And it seems to me that we owe it to all of you and to our constituents to make sure that we not only give you more responsibility but we give you some wherewithal to meet that responsibility as we go forward.

So a little plug, I hope that you continue your vocal support for my effort for State and local assistance programs that we've had in the budget. I thank you all very, very much for taking the time. I realize it's an imposition on your time. Thanks for all you've done.

Our next panel, last but not least—and I thank them for their patience—is Mr. Sterling Epps, Federal Law Enforcement Officers Association; Robert Fuesel, national president of the Federal Criminal Investigators Association; and Mario Moreno, Mexican-American Legal Defense and Legal Education Fund. I guess I have two of

the three. Is Mr. Fuesel here? All right, Mr. Fuesel is going through what we all go through, especially those of us who travel a lot these days—he's in the air somewhere, and we're moving a little ahead of schedule, so we will put his statement in the record as if read. Mr. Epps, why don't you begin? And welcome.

[The statement of Robert R. Fuesel follows:]

TESTIMONY OF ROBERT R. FUESEL, NATIONAL PRESIDENT,
FEDERAL CRIMINAL INVESTIGATORS ASSOCIATION

THANK YOU CHAIRMAN BIDEN AND MEMBERS OF THE COMMITTEE; MY NAME IS ROBERT FUESEL. I AM THE NATIONAL PRESIDENT OF THE FEDERAL CRIMINAL INVESTIGATORS ASSOCIATION.

THE FCIA IS MADE UP OF AGENTS REPRESENTING MORE THAN 50 FEDERAL LAW ENFORCEMENT AGENCIES THROUGHOUT NOT ONLY THE UNITED STATES, BUT ALSO THE REST OF THE FREE WORLD. THE PRIMARY GOAL OF THE ASSOCIATION IS SIMPLY TO ENCOURAGE A RECOGNITION THAT CRIMINAL INVESTIGATION IS A TRUE AND HONORABLE PROFESSION. IT IS WITH THAT GOAL IN MIND THAT THE EXECUTIVE BOARD, ACTING ON BEHALF OF THE GENERAL MEMBERSHIP OF THE FCIA, WISHES TO PLACE ON THE RECORD ITS HEARTY AND UNQUALIFIED ENDORSEMENT OF DISTRICT JUDGE WILLIAM S. SESSIONS OF TEXAS TO BE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

KEEPING IN MIND THAT THE FCIA CONSISTS FOR THE MOST PART OF CRIMINAL INVESTIGATORS WHO ARE NOT ONLY COLLEGE EDUCATED, BUT ALSO WISE AND CONDITIONED IN THE ARCANE METHODS OF THE CRIMINAL ELEMENT. WE SINCERELY FEEL THAT OUR ASSOCIATION'S GOALS FOR LAW ENFORCEMENT WILL BE ADVANCED SUBSTANTIALLY BY THE APPOINTMENT OF JUDGE SESSIONS AS DIRECTOR OF THE FBI FOR THE FOLLOWING REASONS:

1. HIS PERSONAL HONOR AND INTEGRITY, WHICH HE POSSESSES TO THE HIGHEST DEGREE, AND HAS DEMONSTRATED CONSISTENTLY IN PUBLIC AND PRIVATE LIFE;

2. HIS DEDICATION TO STRENUOUS BUT EQUITABLE ENFORCEMENT OF THE LAWS, AS EVIDENCED BY HIS EXEMPLARY RECORD AS DISTRICT JUDGE IN TEXAS;

3. HIS REPUTATION AS U.S. ATTORNEY IN SAN ANTONIO FOR VIGOROUSLY PROSECUTING DRUG TRAFFICKERS;

4. HIS BELIEF THAT THERE SHOULD BE MORE COOPERATION BETWEEN FEDERAL STATE AND LOCAL LAW ENFORCEMENT AGENCIES IN SHARING INFORMATION, EXPENSES AND RESOURCES;

5. HIS ADMINISTRATIVE AND ORGANIZATIONAL CAPABILITIES THAT WILL ALLOW HIM TO

PROPERLY MANAGE A LARGE FEDERAL AGENCY.

THIS ENDORSEMENT IS BASED UPON THE COLLECTIVE EXPERIENCE OF THOSE CRIMINAL INVESTIGATORS WHO ARE CHARGED WITH THE RESPONSIBILITY FOR ENFORCING OUR NATION'S LAWS. YOU HERE TODAY ALL KNOW THE TYPE OF DEDICATED CRIMINAL INVESTIGATORS OF WHOM I SPEAK. WE IN THE PROFESSION MOST COMMONLY REFER TO THEM, WITH A CERTAIN DEGREE OF REVERENCE, AS THOSE AGENTS IN "THE FIELD". THEY ARE THE MEN AND WOMEN WHO SPEND THEIR ENTIRE WORKING DAYS AND NIGHTS IN THE STREETS OF OUR GREAT COUNTRY; THEY ARE THE FRONT LINE TROOPS IN THE DAY-TO-DAY BATTLE ON BEHALF OF THE PEOPLE OF THIS COUNTRY AGAINST THOSE WHO ARE BENT ON CRIMINAL ACTIVITIES. WE KNOW THAT ALL OF YOU HERE TODAY SUPPORT THE DAILY ENFORCEMENT EFFORTS OF THESE AGENTS. LEST THERE BE ANY DOUBT, WE ARE BEFORE YOU NOW TO STATE UNEQUIVOCALLY THAT THOSE FIELD AGENTS SUPPORT FULLY THE NOMINATION OF JUDGE SESSIONS.

WE RESPECTFULLY SUGGEST THAT JUDGE SESSIONS WILL BRING TO THE OFFICE OF THE FEDERAL BUREAU OF INVESTIGATION NOT MERELY A WEALTH OF LAW ENFORCEMENT EXPERIENCE, BUT ALSO A SENSE OF JUSTICE COUPLED WITH AN UNQUENCHABLE DESIRE FOR FIGHTING CRIME. HE IS KNOWN TO HAVE STRONG VIEWS ON CRIMINAL JUSTICE AND A COMMITMENT TO THE RULE OF LAW, TWO CHARACTERISTICS THAT THE DIRECTOR OF THE FBI MUST HAVE.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, WE DO NOT MAKE THIS ENDORSEMENT LIGHTLY; OUR COLLECTIVE CONSCIENCE WILL NOT PERMIT A CASUAL DECISION IN THIS REGARD. WE ARE MAKING THIS ENDORSEMENT BECAUSE WE SINCERELY BELIEVE, BASED ON OUR EXPERIENCE AND JUDGE SESSION'S RECORD, THAT HIS CONFIRMATION FOR THE OFFICE OF DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION WOULD BE OF BENEFIT NOT ONLY TO THE FEDERAL ENFORCEMENT EFFORT, BUT TO THE ENTIRE LAW ENFORCEMENT COMMUNITY OF THE UNITED STATES. THANK YOU. I WILL NOW ATTEMPT TO ANSWER ANY QUESTIONS THE COMMITTEE MEMBERS MAY HAVE.

STATEMENT OF A PANEL CONSISTING OF STERLING EPPS, FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION; ROBERT R. FUESEL, FEDERAL CRIMINAL INVESTIGATIONS ASSOCIATION; AND MARIO MORENO, MEXICAN-AMERICAN LEGAL DEFENSE AND LEGAL EDUCATION FUND

Mr. EPPS. Thank you. Mr. Chairman, and members of the Judiciary Committee, ladies and gentlemen. It is, indeed, an honor to have been asked to testify at the confirmation hearings for Judge William Sessions. I can summarize our testimony that we wish to be inserted in one sentence.

Judge Sessions is the right man at the right time for the right job. I'm available for questions.

[The statement of Mr. Sterling Epps follows:]

PREPARED STATEMENT OF F.L.E.O.A. LEGISLATIVE COCHAIRMAN STERLING EPPS

Mr. Chairman, members of the Judiciary Committee, ladies and gentlemen . . .

It is indeed an honor to have been asked to testify at the confirmation of Judge William Sessions. The nomination of this outstanding attorney, prosecutor, administrator and Federal judge to be the new Director of the Federal Bureau of Investigations is a singularly correct one. His reputation for fairness, efficiency, courage as a prosecutor and jurist is recognized by groups as widely divergent as the American Civil Liberties Union and the San Antonio Prosecutor's office. He is the right man, at the right time for the right position.

As the Legislative Co-chairman of the Federal Law Enforcement Officers Association, the largest professional association in the nation exclusively representing federal law enforcement officers and criminal investigators, my testimony, today, is offered on behalf of all our members. For every federal agent and enforcement officer, be they from the Treasury Department, the Justice Department, the Postal Inspection Service, or one of the Offices of Inspector General benefits from having a reasonable and competent law enforcement professional at the head of the FBI.

Judge Sessions, as we have been able to determine from our research, has proven himself to be an excellent Chief Judge in West Texas. He blends efficient court operations, with integrity, and a no nonsense approach to court decorum. He demands that the public respect the federal institutions of law and justice and the public responds accordingly.

The Judge is experienced at investigating and prosecuting public corruption, terrorism, and pornography. He appears to be as comfortable commanding a white collar crime investigation, as a narcotics, or bank robbery case.

The term "fairness" is raised quite often when people discuss William Sessions. William Sessions is above all fair in the conduct of business. The Federal Law Enforcement Officers Association feels this is a critical character trait for anyone handed the most powerful law enforcement post in the free world.

In the wake of the investigations into the FBI involvement with the Weatherman case, the very foundation of trust between law enforcement managers and working agents was shaken. The Webster years at the FBI and Attorney General Meese's tenure at the White House and Justice Department repaired much of that distrust. Associations like the Federal Law Enforcement Officers Association, the National Association of Police Organizations and others were encouraged to discuss professional concerns with directors of federal law enforcement agencies, the Justice Department officials and with Mr. Webster's staff.

Within the next five years it is estimated by the FBI that between 50% and 60% of its trained special agents will be retiring. The influx of new recruits and the promotion of new senior managers will make this open dialogue again a critical factor.

I would hope that the current open door policy, at very least, would continue under Judge Sessions and be improved upon.

If I were to have just one question that I would wish this Committee to explore with the Judge that question would be:

"How would you, Judge Sessions, maintain or expand the dialogues between the Bureau and other federal, state, county and local enforcement organization and professional associations?"

In closing let me emphasize this is a question of interest. In no way should it be construed as a reservation about this superb law enforcement professional and nominee.

Thank you and I would be pleased to answer any questions you have at this time.

The CHAIRMAN. You're my kind of guy, Mr. Epps. You are my kind of guy. I thank you. I will have a couple of questions, but let's go to Mr. Moreno.

Mr. MORENO. Thank you very much, Mr. Chairman.

The CHAIRMAN. Good to see you again. Thank you for coming.

Mr. MORENO. Thank you for the opportunity that you've provided to the Mexican-American Legal Defense and Educational Fund to testify concerning the appointment of Judge William Sessions as the next Director of the Federal Bureau of Investigation.

My name is Mario Moreno, and I'm an associate counsel with the Mexican-American Legal Defense Fund here in Washington, D.C. The Mexican-American Legal Defense Fund is also known as MALDEF, which is the acronym. It is not MALDEF's intent to speak for or against Judge Sessions' confirmation; rather, we speak to one of the most significant problems that the new director will have to confront, and hopefully resolve, almost as soon as he's confirmed.

Our testimony concerns a hostility within the Bureau of employment of minorities, particularly Hispanics. A bit of background may be helpful. The FBI employs special agents beginning at GS-level 10 going all the way to 18. Grade-levels 10 through 13 are non-supervisory rank, and agents normally enter at 10 and progress, through longevity and merit appointments, up to 13. Beginning at grade-level 14 and continuing through 18, the Bureau's supervisory and management staff are concentrated.

The Bureau has historically not been receptive to minorities. Although the Bureau employs 9,018 individuals as special agents, only 378, or 4.2 percent, are Hispanic. Of the 378 Hispanics, most have been hired within the last few years. Since the percentage of Hispanics in the American population exceeds 7 percent, the Bureau has not yet succeeded in hiring and recruiting Hispanic agents in the same proportion as they exist or are represented in the general population.

Moreover, since the Bureau's agents are concentrated in the cities with large Hispanic populations—I'm referring to Los Angeles, New York, Chicago, Miami, San Francisco, and here in D.C.—we believe that the Bureau's recruitment of Hispanics should exceed the general labor pool.

At present, most Hispanic agents are concentrated in the entry levels of GS-10 through 13. Few supervisory and management personnel are Hispanic. No Hispanics rank above grade 16 in the Bureau, and there are only two at that grade. GS-15 has only four Hispanics, and two were very recently promoted.

Thus, although the Bureau employs approximately 450 persons in grades 15 and above, only six—1.3 percent—are Hispanic. Significantly, the Bureau has not revised its Affirmative Action plan since 1980. A number of Hispanic agents have advised MALDEF that the Bureau's recruitment efforts, particularly of desperately-needed bilingual Hispanics, have dropped off considerably over the last few years. And the Bureau relies heavily on these Hispanics who are bilingual, particularly in drug cases. And their upward mobility is adversely affected, because they are stuck doing certain

kinds of jobs that limit their exposure to other important responsibilities.

We believe that the Bureau must undertake special efforts to recruit qualified Hispanic agents, particularly in the major urban areas. And, such efforts can succeed. We think that whoever becomes the director must undertake a thorough review of the underrepresentation of Hispanics in the Bureau, and the allegations of disparate treatment of Hispanics.

Many minorities in the Bureau believe that the Bureau's management is insensitive to the issue of discrimination. We believe that the next director must make a personal, concerted, and sustained effort to resolve their grievances for the good of the Bureau and the good of the minorities.

In this regard, the director should carefully consider appointing a task force on minorities to advise him personally on the status of minorities in the Bureau. If such a task force is to have any impact, the director must meet with it regularly, and take seriously its recommendations. We would also urge that the new director carefully consider the concerns of the bilingual Hispanic agents that the Bureau is depriving them of equal opportunity to receive a variety of experience because it employs so few Spanish-speaking agents.

Finally, we would urge this new committee to communicate these concerns to the new director, concerning the treatment of Hispanics in the Bureau. As the committee may know, several months ago, some of the highest-ranking Hispanic agents filed a lawsuit against the Federal Bureau of Investigation alleging discrimination in transfer, in promotion, and retaliation against those who complained. Twenty-seven other Hispanic agents subsequently filed statements in support of the allegations in the complaint and the judge recently certified a class.

Such lawsuits, particularly when brought by the highest-ranking minorities who have a lot to lose by rocking the boat, often evidence serious problems within an organization. In any event, apart from the merits of the Perez lawsuit, it is clear that a large number of Hispanic FBI agents believe that the Bureau has treated them in a discriminatory fashion.

It is more likely than not that some problems underlie the Bureau's treatment of Hispanic agents. At the very least, the Bureau obviously suffers a morale problem among its minority agents. We urge this committee to do all it can to encourage the new Director to assume the lead to resolve these concerns.

I thank you again, Senator, for the opportunity to testify, and I'd like to thank Scott Green and the staff for providing all the assistance that they have to us.

[The statement of Mr. Mario Moreno follows:]

STATEMENT

ON BEHALF OF THE

MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND ("MALDEF")

BY

MARIO MORENO
ASSOCIATE COUNSEL

Mr. Chairman and members of the Committee, thank you for providing the Mexican American Legal Defense And Educational Fund ("MALDEF") with the opportunity to testify concerning the appointment of Judge William Sessions to be the next director of the Federal Bureau of Investigation (FBI).

My name is Mario Moreno, and I am Associate Counsel for MALDEF in our Washington, D.C. office. It is not MALDEF's intent to speak for or against Judge Sessions' confirmation. Rather, we speak to one of the most significant problems that the new Director will have to confront, and hopefully resolve, almost as soon as he is confirmed. Our testimony concerns the hostility within the Bureau to employment of minorities, particularly Hispanics.

A bit of background may be helpful. The (FBI) employs special agents beginning at GS level 10 and continuing through level 18. Grades 10 through 13 are the nonsupervisory ranks, and agents normally enter at GS 10 and progress through longitivity and merit appointments up to level 13. Beginning at grade 14 and continuing through GS 18, the Bureau's supervisory and management staff are concentrated.

The Bureau has historically not been receptive to minorities. Although the Bureau employs 9,018 individuals as special agents, only 378 or 4.2%, are Hispanic. Of those 378 Hispanics, most have been hired within the last few years.

Since the percentage of Hispanics in the American population exceeds 7%, the Bureau has not yet succeeded in hiring and recruiting Hispanic agents in the same proportion as their representation in the general population. Moreover, since the Bureau's agents are concentrated in cities with large Hispanic

populations (e.g., Los Angeles, New York, Chicago, Miami, San Francisco, Washington, D.C.), we believe the FBI's recruitment of Hispanics should exceed the general labor pool.

At present, most Hispanic agents are concentrated in the entry-level pay grades (GS 10-13). Few supervisory and management personnel are Hispanic. No Hispanics rank above grade 16 in the Bureau, and there are only two in that grade. GS 15 has only 4 Hispanics, and two of these are recent promotees. Thus, although the Bureau employs approximately 450 persons in grade 15 and above, only 6, or 1.3%, are Hispanic.

Significantly, the Bureau has not revised its Affirmative Action Plan since 1980. A number of Hispanic agents have advised MALDEF that the Bureau's recruitment efforts, particularly of desperately-needed bilingual Hispanics, have dropped off considerably in the last few years. And, the Bureau relies so heavily on those Hispanics who are bilingual, particularly in drug cases, that their upward mobility is adversely affected because they get stuck doing certain kinds of cases that limit their exposure to other important responsibilities.

We believe that the Bureau must undertake special efforts to recruit qualified Hispanic agents, particularly in the major urban centers. And, such efforts can succeed. We think that whoever becomes Director must undertake a thorough review of the underrepresentation of Hispanics in the Bureau, and the allegations of disparate treatment of Hispanics. Many minorities in the Bureau believe that the Bureau's management is insensitive to issues of discrimination. We believe that the Director must make a personal, concerted, and sustained effort to resolve their grievances, for the good of the Bureau as well as the minorities.

In this regard, the Director should carefully consider appointing a Task Force on minorities to advise him personally on the status of minorities in the Bureau. If such a Task Force is to have any impact, the Director must meet with it regularly and take seriously its recommendations.

We would also urge that the new Director carefully consider the concerns of bilingual Hispanic agents that the Bureau is

depriving them of equal opportunity to receive a variety of experiences because it employs so few Spanish-speaking agents.

Finally, we would urge this committee to communicate these its concerns to the new Director regarding the treatment of Hispanics in the Bureau. As the committee may know, several months ago some of the highest-ranking Hispanics in the Bureau filed a lawsuit against the FBI, alleging discrimination in transfers, promotions, and retaliation against those who complained. Twenty-seven other Hispanic agents subsequently filed statements in support of the allegations in the complaint, and the judge recently certified the class.

Such lawsuits, particularly when brought by high-ranking minorities who have a lot to lose by rocking the boat, often evidence serious problems within an organization. In any event, apart from the merits of the Perez lawsuit, it is clear that a large number of Hispanic FBI agents believe that the Bureau has treated them in a discriminatory fashion. It is more likely than not that some problem underlies the Bureau's treatment of Hispanic agents. At the very least, the Bureau obviously suffers a morale problem among its minority agents. We urge this Committee to do all it can to encourage the new Director to assume the lead in resolving these concerns.

The CHAIRMAN. Well, let me say two things. I don't really have a question, but in the written questions I've submitted to Judge Sessions, I've asked the questions you've raised. And it seems to me a fairly propitious time.

You may have been here when I pointed out that there are going to be more new agents coming on board in the next 5 years than any time in history in terms of raw numbers, because it's just the way the retirements are taking place—high-level management people.

It seems to me that gives an opportunity for a director who's committed, and a Justice Department further that is committed, to equal opportunity and promoting the rights and opportunities for minorities to progress, particularly in this case Hispanics—it's a golden opportunity, a golden chance.

It's not a case of having to go in and make room in a stultified organization, because there's going to be such a phenomenal turnover. So I can assure you, as one Senator—and I believe there are many on this committee, from Senators DeConcini to Kennedy to my Republican colleagues, who share my view—that we will work with you and with the Director to make sure that this issue is kept uppermost in his mind, because you find—one of the things you've said that I'd like to elaborate on slightly in my experience with the agency, with all agencies, is that, in a sense, a qualified—and they wouldn't be hired if they were not qualified—bilingual Hispanic is both a phenomenal benefit to the agency, but also in a sense traps himself or herself, because they're so good at what they do, and they're in such demand for what they do, they tend not to be given the opportunities others would have to be moved around.

Because it's a Catch-22 situation to have a supervisor saying, "Well, if I move Moreno out of here, then who am I going to have in this area where I have an extreme need for bilingual agents? I don't want to give him a chance to move to, I don't know where, to Philadelphia or to a smaller agency." Even though there's a significant bilingual population in Philadelphia, by the way.

But you tend to be kept in a category. For the reason being, you do it so well. And the only way I see to overcome it is more absolute numbers of people, so the job is able to be covered, bilingual requirements in the Agency. And also, there is enough opportunity for people to move.

So I see it as no better time for a director to be able to do something over the next 5 years, incrementally, about the whole question of minority employment, particularly in the case of Hispanics.

Mr. MORENO. If I may add, I was very heartened by the response that Judge Sessions made with regards to looking upon it as an opportunity and not so much a headache.

The CHAIRMAN. So was I. But again, he's going to be so busy. It is a phenomenally large agency, and as rounded as his credentials are, he is completely unprepared for certain things he's about to get into. He has no experience in counter-intelligence. Nor should he. I'm not suggesting that as a criticism. No one has experience in all those areas unless you've been doing it in the Agency.

And so I think it's up to us, in the spirit in which he offered to cooperate, to remind him and help him in promoting what is an

opportunity not only to have better law enforcement, but also to have a very positive impact on society as a whole.

So I thank you. I thank you, Mr. Epps, particularly for your succinct statement, and I don't want to involve you in guilt by association here, but I noticed as Mr. Moreno and I have been speaking you've been nodding your head. I suspect you generally agree with us in this minority movement.

Mr. EPPS. I'm in total agreement, and I liked the responses of Judge Sessions. I heard him say to the press a few minutes ago that he wanted to be called Director if he gets the job. And that means a lot to me, because he puts a lot of faith in being the Director off the FBI and not continuing as a judge, I'm looking forward to this man's tenure.

The CHAIRMAN. So am I. I have real high hopes for him, and again, though, I think we just have to keep, not keeping the pressure on him, but keeping the scope up—making sure people are aware and it doesn't fall between the cracks, something as important as this. This you've both been very, very cooperative. I apologize to Mr. Fuesel, who is probably going to arrive here as the hearing is over through no fault of his own. But we will put his testimony in the record as if read. I appreciate your help and look forward to your continued cooperation.

The hearings are adjourned.

[Whereupon, at 4:15 p.m, the committee adjourned at the call of the chair.]

APPENDIX

TESTIMONY OF

THE FRATERNAL ORDER OF POLICE

TO

THE SENATE JUDICIARY COMMITTEE

ON THE CONFIRMATION OF

WILLIAM STEELE SESSIONS

AS

DIRECTOR

OF

THE FEDERAL BUREAU OF INVESTIGATION

SEPTEMBER 10, 1987

DEWEY STOKES, PRESIDENT

DONALD L. CAHILL, CHAIRMAN

NATIONAL LEGISLATIVE COMMITTEE

Senator Biden, Members of the Senate Judiciary Committee.

The Fraternal Order of Police appreciates this opportunity to address the committee on this important matter of the appointment of Judge William Steele Sessions as Director of the Federal Bureau of Investigation.

The Fraternal Order of Police is the largest police organization in the United States representing over 190,000 Law Enforcement Officers of all ranks in fourty four states.

The Fraternal Order of Police is comprised of Law Enforcement Officers from, Federal Agencies, State Agencies, County Agencies and Municipal Agencies. The Fraternal Order of Police stresses professionalism throughout its ranks in every area of enforcement from the investigation through the arrest and ending with the prosecution.

Many of these investigations we participate in are joint Federal and State investigations and many are task force investigations. As a result, the local and state Law Enforcement Officers work hand in hand with agents of the Federal Bureau of Investigation.

We all know that there have been problems in the past caused by professional jealousies between local police and agents of the Federal Bureau of Investigation; and I am sure there are some problems now.

Under the leadership of Judge Webster, Federal and Local Law Enforcement has been brought closer together. Petty differences have been set aside and professional courtesies have prevailed. The end result has been more quality cases for prosecution and more criminals incarcerated.

Under the leadership of Judge Sessions we believe that this trend would not only continue, but improve tremendously.

For the past 18 years, Judge Sessions has devoted himself to serving the public. First in Washington in the Department of Justice, then as a United States Attorney in West Texas and then on the Federal Bench where he has decided some of the toughest cases in our land. How else could a man show how fair and impartial he is, than to preside over a trial of a man accused of murdering a fellow Judge and give that man a fair trial.

Attorney General Meese has said that Judge Sessions has a total commitment to the constitution and the rule of law. He has further said that his integrity is unquestioned, that his character and his career performance strongly indicate that he will approach his work in the non-partisan manner that is demanded of the Director of the F.B.I. Judge Sessions has proven this by his past performance.

Judge Sessions has proven his administrative ability and his dedication to the community many times over the years through his activities with the American Judicature Sociaty, the State Bar Association of Texas, various other Bar Associations and Committees of these Associations. Judge Sessions also served in the Junior Chamber of Commerce, he served as a Director of the Local Girl Scout Council, Director and Committeeman for the Local Boy Scout Council. Judge Sessions has served the public through his leadership in the American Cancer Society, the United Fund, the Local Chamber of Commerse and has further served his community through his church.

During Attorney General Meese's introduction of Judge Sessions to the Washington Press Corps, a reported asked Judge Sessions what sort of "stamp" would he leave on the F.B.I. after he leaves. Judge Sessions' reply was that - Judge Sessions provided the continuing highest leadership that could be afforded to the bureau and that, in fact, what was done was compatable with the bureau's history of integrity, proper law enforcement and was, in fact, a commendation to both the President who appointed him, President Regan, and to Attorney General Meese, who recommended him to the President.

The Fraternal Order of Police would like to see the confirmation of Judge Sessions as the Director of the Federal Bureau of Investigation and afford him the opportunity to leave this stamp. Let him not only continue the march of his fine predecessor, Judge Webster, but to lead the Bureau into a decade of cooperation between Law Enforcement Agencies and a system of justice which will work.

Gentlemen, the Fraternal Order of Police thanks you.

WILLIAM S. SESSIONS

Born:	May 27, 1930	Fort Smith, Arkansas
Legal Residence:	Texas	
Marital Status:	Married	Wife-Alice; 4 children
Education:	1948-1951	University of Kansas
	1951	Florida State University
	1954-1958	Baylor University B.A. degree (1956) J.D. degree (1958)
Bar:	1959	Texas
Military Service:	1951-1955	U.S. Air Force, First Lieutenant
Employment:	1959-1961	McGregor and Sessions Waco, Texas
	1961-1962	Tirey, McLaughlin, Gorin and Tirey
	1962-1965	Haley, Koehne, Fulbright and Winniford
	1965-1969	Haley, Fulbright, Winniford and Sessions
	1969-1971	Chief, Government Operations Section, Criminal Division, Department of Justice
	1971-12/74	United States Attorney Western District of Texas
	1974 - pres	United States Dist. Judge Western Dist. of Texas (Chief Judge 2/80-present)

Office: 655 E. Durango Blvd
San Antonio, TX 78206

Home: 9206 Village Drive
San Antonio, TX 78217

WILLIAM STEELE SESSIONS
491-32-6388 DOB: MAY 27, 1930

QUESTIONNAIRE FOR JUDICIAL, UNITED STATES ATTORNEY, AND DEPARTMENT OF JUSTICE NOMINEES

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)

William Steele Sessions.

2. Address: List current place of residence and office address(es).

Residence: 119 Grandview Place
San Antonio, Texas 78209

Office: 655 East Durango Boulevard
San Antonio, Texas 78206-1196

3. Date and place of birth.

Born on May 27, 1930, at Fort Smith, Arkansas.

4. Marital Status (include maiden name of wife or husband's name). List spouse's occupation, employer's name and business address(es).

Married to Alice June Lewis Sessions.

Mrs. Sessions is an independent seller of fabric.

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

University of Kansas: SEP 1948-JAN 1951
Florida State University (Tyndall AFB Extension):
SEP 1951-MAR 1952
Baylor University (Night School): 1954-1955
Baylor University (Full Time): SEP 1955-JUN 1956 (B.A.)
Baylor University School of Law: SEP 1956-NOV 1958 (LL.B. - later re-issued as J.D.)

6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

Had I not been in the Air Force, I would have graduated in 1952 so I have listed employment following my separation from the Air Force on October 3, 1955.

Date	Employer & Address	Position
1951-1959	Heights Pharmacy 1724 Colcord, Waco, TX	Clerk

1959-1961	McGregor & Sessions 1401 Jefferson, Waco, TX	Law Partner
1961-1962	Tirey, McLaughlin, Corin & Tirey Amicable Bldg, Waco, TX	Associate
1962-1965	Haley, Koehne, Fulbright, & Winniford 220 N. 5th, Waco, TX	Associate
1965-1969	Haley, Fulbright, Winniford, Sessions & Bice 220 N. 5th, Waco, TX	Partner
1969-1971	United States Department of Justice, Washington, DC	C, Govt Ops Sec
1971-1974	United States Attorney Western District of Texas	United States Attorney
1974-Pres	United States District Judge Western District of Texas	Chief Judge (FEB 80-Pres)

7. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

I served on active duty with the United States Air Force from January 11, 1951, to October 3, 1955. I was discharged at the rank of first lieutenant, AO225391, and received an honorable discharge. Thereafter, I served in the United States Air Force Reserve until I was given a retirement as a reserve captain on August 1, 1970.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the committee.

I received a vocational rehabilitation scholarship from the Missouri Vocational Rehabilitation Office in 1948 for fees, tuition, and books at the University of Kansas. I received no other scholarship, fellowship, or honorary degree. I was a member of Phi Sigma Alpha Honorary Political Science Fraternity.

I have received no honorary degrees; however, I received the Rosewood Gavel Award from St. Mary's University School of Law in May of 1982.

9. Bar Associations: List all bar associations, legal or judicial-related committees or conferences of which you are or have been a member and give the titles and dates of any offices which you have held in such groups.

Waco-McLennan County Jr. Bar Assn	Sec., Treasurer, VP, President	1959-1966
Texas State Junior Bar Assn	Director	1963-1966
Waco-McLennan County Bar Assn	Dir., Sec., Treasurer, VP, President	1959-1969
Texas State Bar Com. on Coordination with Accountants	Chairman	1968

San Antonio Bar Assn	Director	[illegible]
San Antonio Chapter of the FBA	Vice President & President	
Federal Bar Assn (National)	Chmn-Ethics Com.	
District Judges Assn of the 5th Circuit	Sec.-Treasurer, VP, President	1980-1983
District Judges Assn of the 5th Circuit	Chmn, Program & Wkshop Com.	1984-1985
Federal Judicial Ctr Washington, DC	Director	1980-1984
Jud Conference Committee on Implementation of Standards for Admission to Practice in Federal Courts (King Committee)	Member	1979-1985
Texas State Bar Committee to Develop Procedures for Certification of State Law Questions to Texas Supreme Court by Federal Courts	Chairman	1983-1985
Judicial Conference Ad Hoc Committee on Court Reporters	Member	1984-Present
Judicial Conference Ad Hoc Committee on Automation	Member	1984-Present
Judicial Improvements Subcommittee	Member Chairman	1983-Present 1986-Present
Judicial Conference Committee on Court Administration	Member	1986-Present
San Antonio Inns of Court XX of the American Inns of Court	President	1986-Present
Federal Judges Assn	Member	1987-Present

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

None.

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

I am admitted to practice in the following courts:

Texas Supreme Court and all other Texas courts: May 5, 1959
United States District Court for the Northern District of Texas: 1960
United States District Court for the Western District of Texas: February 24, 1964
Supreme Court of the United States: June 21, 1971

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

The Co-Conspirator's Statement: Evaluating Preliminary Questions of Admissibility Under Rule 801(d)(2)(E), 11 St. Mary's L.J. 1 (1979). (Attachment A).
Federal Rules of Evidence: An Overview of Their Judicial Interpretation, 9 INCL Journal 1 (June 1980). (Attachment B).
A Synopsis of the Federal Juvenile Delinquency Act, 14 St. Mary's L.J. 3 (1983). (Attachment C).
"Attorney Competency in Federal Courts: The Second Milestone and The Challenge Ahead," Federal Bar News & Journal, Vol. 32. No. 7 (September 1985). (Attachment D).
"Federal Civil Practice--Where Are We Headed?," Federal Bar News & Journal, Vol. 32, No. 10 (December 1985). (Attachment E).

13. Health: What is the present state of your health? List the date of your last physical examination.

Very good. March, 1987.

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

United States District Judge, Western District of Texas: December 24, 1974 to Present

Chief Judge, United States District Court, Western District of Texas: February 12, 1980 to Present

15. Citations. If you are or have been a judge, provide citations for: (1) the ten most significant opinions you have written; (2) a short summary of all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions.

Please see Attachment F.

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

I was elected city councilman for the City of Waco, Texas, and assumed the office on April 1, 1969. I resigned the last

of July, 1969, when I joined the Department of Justice in Washington, D.C.

17. Legal Career:

a. Described chronologically your law practice and experience after graduation from law school including:

1. whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk.

I did not serve as a clerk to a judge.

2. whether you practiced alone, and if so, the addresses and dates.

I did not practice alone.

3. the dates, names, and address of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each.

From 1959 to 1961, I was a partner in a two-man firm (McGregor & Sessions at 1401 Jefferson Avenue in Waco, Texas).

From 1961 to 1962, I was an employed attorney with the firm of Tirey, McLaughlin, Gorin & Tirey in Amicable Building in Waco, Texas.

From 1962 to August 1, 1969, I was with the firm of Haley, Fulbright, Winniford, Sessions & Bice at 220 North 5th Street in Waco, Texas. I became a partner in that firm in 1965.

From August 1, 1969, to July 22, 1971, I served as Chief of the Government Operations Section in the Criminal Division of the Department of Justice in Washington, D.C.

On July 22, 1971, I became the United States Attorney for the Western District of Texas and served in that capacity until December 24, 1974, when I became a United States District Judge for the Western District of Texas.

b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

On July 28, 1987, I called Reginald G. Govan, Special Counsel to the Chairman, Senate Committee on the Judiciary at (202) 224-5225. I informed him that I had previously submitted a Personal Data Questionnaire in connection with the confirmation procedure prior to my becoming a United States District Judge on September 24, 1974. He instructed me that it would be appropriate for me to attach that Personal Data Questionnaire and that I need not repeat the answers given in that questionnaire to questions 10(a) and (b) and 11(a), (b), (c), (d), and (e); 12(a), (b), and (c); and 13.

Please see Attachment G.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

See 17b.1. above.

1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

See 17b.1. above.

2. What percentage of these appearances was in:

(a) federal courts;
(b) state courts of record;
(c) other courts.

See 17b.1. above.

3. What percentage of your litigation was:

(a) civil.

See 17b.1. above.

(b) criminal.

See 17b.1. above.

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

See 17b.1. above.

5. What percentage of these trials was:

(a) jury.

See 17b.1. above.

(b) Non-jury.

See 17b.1. above.

18. Litigation. Describe the ten most significant litigated matters which you personally handled. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

(a) the date of representation;
(b) the name of the court and the name of the judge or judges before whom the case was litigated; and
(c) the individual name, address, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

Please see Attachment H.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional

services, firm memberships, former employers, clients, or customers. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

I perceive no categories of litigation or financial arrangements that are likely to present potential conflicts-of-interest during my service in the position as Director of the FBI.

3. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

No.

4. List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, patents, honoraria, and other items exceeding $500 or more (If you prefer to do so, copies of the Executive Personnel Financial Disclosure Report, required by the Ethics in Government Act of 1978, may be substituted here.)

Attached is a copy of SF 278 (Rev 1/85) - Financial Disclosure Report (Attachment I).

5. Please complete the attached net worth statement in detail (Add schedules as called for).

III. GENERAL (PUBLIC)

1. An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

During the period of my private practice between 1959 and 1969, it was my practice to routinely give legal services to those who were unable to pay where they had approached me in need of services. This service was not extensive but was fairly regular. I do not recall specific instances in that period of time in connection with my private practice.

In the mid-1960's as a Director and officer of the Waco-McLennan County Bar Association, a Legal Aid Clinic was established and funded by the Bar Association and as President of that association, strong support of the Legal Aid Clinic was continued.

I joined the Department of Justice in Washington, D.C., and

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS			LIABILITIES		
Cash on hand and in banks	10,000	00	Notes payable to banks—secured		0
U.S. Government securities—add schedule		0	Notes payable to banks—unsecured		0
Listed securities—add schedule	8,850	00	Notes payable to relatives		0
Unlisted securities—add schedule		0	Notes payable to others		0
Accounts and notes receivable:			Accounts and bills due	3,000	0
Due from relatives and friends		0	Unpaid income tax		0
Due from others		0	Other unpaid tax and interest		0
Doubtful		0	Real estate mortgages payable—add schedule	80,000	00
Real estate owned—add schedule	180,000	00	Chattel mortgages and other liens payable		0
Real estate mortgages receivable		0	Other debts—itemize:		
Autos and other personal property	25,000	00	(Loans against insurance	12,200	0
Cash value—life insurance	13,100	00	policies)		
Other assets—itemize:		0			
			Total liabilities	95,200	00
			Net worth	141,750	00
Total assets	236,950	00	Total liabilities and net worth	236,950	00

CONTINGENT LIABILITIES			GENERAL INFORMATION		
As endorser, comaker or guarantor		0	Are any assets pledged? (Add schedule.)		0
On leases or contracts		0	Are you defendant in any suits or legal actions? Yes		
Legal Claims		0	Have you ever taken bankruptcy?		0
Provision for Federal Income Tax		0	No		
Other special debt		0			

SESSIONS, WILLIAM S.
491-32-6388 DOB: MAY 27, 1930

FINANCIAL STATEMENT
NET WORTH

Assets

Listed securities--add schedule:

352.556 shares	American Telephone & Telegraph Company (Common)	$ 8,850.00

Real estate owned--add schedule:

119 Grandview Place San Antonio, Texas 78209	175,000.00
60' x 350' lot [listed in Kerr County Court record, State of Texas, Vol. 407, page 534]	5,000.00

Liabilities

Real estate mortgages payable--add schedule:

119 Grandview Place San Antonio, Texas 78209	80,000.00

was not aware of any particular programs in the Criminal Division related to serving the disadvantaged.

In August of 1971, I became United States Attorney for the Western District of Texas and there were no particular programs of which I was aware of that related to serving the disadvantaged other than those in connection with the Criminal Justice Act.

Since 1974, I have been associated with providing services through the Criminal Justice Act to those persons who are qualified and unable to pay attorney's fees. Additionally, during my tenure as Chief Judge, the Local Rules of the Western District of Texas have been amended to provide a Plan for the Appointment of Counsel in Criminal and Civil Cases in the San Antonio Division, the latest revision of which is attached as Attachment J.

2. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization and invidiously discriminates on the basis of race, sex, or religion. Do you currently belong, or have you belonged, to any organization which discriminates--through either formal membership requirements or the practical implementation of membership policies? If so, list with dates of membership. What have you done to try to change these policies?

I was a member of the Junior Chamber of Commerce of Waco, Texas, from 1960 to 1962, and there were no female members other than in the Auxiliary. I was a member of the downtown Waco Lions Club, I believe from 1967 to 1969. There were no female members of the Club, and I presume the membership requirement excluded them.

In the spring of 1986, I joined the downtown Rotary Club of San Antonio, Texas. It had specific provisions in its Constitution and By-Laws for male membership. When the Duarte decision was handed down by the Supreme Court earlier this year, I immediately sent a copy to the President of the Club, Steve Simmons, suggesting that he discuss it with the officers and directors and assume immediate leadership for changing the policy of the Club to include female members. Several days after receiving the letter, Mr. Simmons announced at the weekly meeting of the Club that I had made the request and he would refer the Constitution and By-Laws to me for suggested amendments. I immediately did that and forwarded the suggested changes to the Constitution and By-Laws to the new president, Stanton Bell. The Club is now in the process of adopting these amendments and accepting female members in the Club.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
655 EAST DURANGO BOULEVARD
SAN ANTONIO, TEXAS 78206-1196

CHAMBERS OF
WILLIAM S. SESSIONS
CHIEF JUDGE

TELEPHONE
(512) 229-6600
FTS 730-6600

September 4, 1987

Honorable Joseph R. Biden, Jr.
United States Senate
Chairman
Committee on the Judiciary
Washington, D.C. 20510-6275

Honorable Strom Thurmond
United States Senate
Ranking Minority Member
Committee on the Judiciary
Washington, D.C. 20510-6275

Dear Senators Biden and Thurmond:

Thank you for your letter of August 27, 1987, containing the supplement to the questionnaire seeking additional information relating to my nomination as Director of the Federal Bureau of Investigation.

I have attached my response to the eleven questions set forth in the Supplemental Questionnaire and, in accordance with your request, have sworn to the truthfulness of the responses.

I shall be pleased to expand upon my answers if you believe that is required.

Sincerely,

William S. Sessions

WILLIAM S. SESSIONS

WSS:DMS
Enclosure
As stated

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUPPLEMENTAL QUESTIONNAIRE

WILLIAM S. SESSIONS
SSAN: 491-32-6388

1. In your 1974 questionnaire responses you made reference to your personal participation in a case in Baltimore in which the government sought to prevent the importation of ten erotic Danish paintings that were to be included in an art exhibit. Also during your service as Chief of the Government Operations Section the government brought charges against persons involved in the closed circuit television broadcast of the Broadway play "Oh, Calcutta," alleging violations of the statute prohibiting interstate transmission of obscene material. In both of these cases, significant First Amendment issues were raised.

a. What were the outcomes of these cases?

It is my recollection that in the case in Baltimore, United States District Judge Frank A. Kaufman denied the government's requested relief in the civil action filed to prevent importation. Although I do not recall, specifically, it is my recollection that the United States Court of Appeals for the Fourth Circuit affirmed Judge Kaufman's action.

In the case of the closed circuit television broadcast of "Oh, Calcutta," it is my recollection that no criminal prosecution was authorized by the Criminal Division of the Department of Justice and that no criminal action was pursued. At this time, I do not recall being informed of the outcome of any action involving "Oh, Calcutta."

b. In approving and participating in the handling of these cases, what consideration did you give to making sure that the government was not improperly infringing on protected First Amendment rights?

In pursuing or approving any action involving First Amendment rights, it is my belief that government attorneys must make every effort to avoid improperly infringing on protected First Amendment rights. In each of these matters, First Amendment discussions were held with the Obscenity Unit in the Government Operations Section and, as I recall, with the Assistant Attorney General of the Criminal Division and the Deputy Assistant Attorney General of the Criminal Division. Following these discussions, it is my recollection that the civil libel procedure was pursued in the Baltimore case against the paintings; but that in the case of "Oh, Calcutta," no criminal prosecution was pursued.

2. What were the reasons why you decided, as Chief of the Government Operations Section, to abandon federal prosecutions against obscenity dealers and to turn the government's focus toward, in your words, "a major attack on the country's largest distributors of pornography"?

It is my recollection that at the time I became Section Chief of the Government Operations Section, there were nineteen or twenty pending federal criminal cases involving obscene materials and that the vast majority of the cases involved charges against small, local operations as opposed to major distributors of obscene materials. It was my belief that cases involving small, local operations could best be pursued by local authorities and that the Department of Justice should concentrate on major distributors. In this fashion, if a major obscenity distributor was involved, a conviction of that dealer would have a more significant impact on the distribution of obscene materials.

3. During the period you served in the Department of Justice there was a great deal of public debate over the government's prosecution of draft resistors and other anti-war protesters.

Were you, as head of the section supervising those prosecutions, aware of any attempt to use criminal prosecutions under the Selective Service Act as a means of punishing draft resistors for their political views?

As Chief of the Government Operations Section charged with enforcement of the Selective Service Act, I know of no attempt to use criminal prosecutions as a means of punishing draft resistors for their political views. I know of no single instance where prosecution was authorized where such a motive existed nor do I ever recall any discussion, with anybody, at any place or time concerning such a motive.

4. In January 1971 the responsibility for supervising Selective Service cases was transferred from your section to the Internal Security Division headed by Assistant Attorney General Robert Mardian. What was this done?

I do not recall being involved in the decision to transfer the responsibility for supervising Selective Service cases from the Criminal Division to the Internal Security Division in January of 1971. As I recall, in approximately March or April of 1971, I was being considered as a nominee for the position as United States Attorney for the Western District of Texas. I was, thereafter, nominated. My commission as United States Attorney is dated July 22, 1971. I believe the section was dissolved and responsibility over all statutes was assigned to other sections of the Criminal Division.

5. In your 1974 questionnaire responses you take credit for having "personally conceived the plan to defuse the highly volatile situation that existed in Berkeley and the Northern District of California where the authority and power of the federal government and the courts was being violated en masse."

Please explain the nature of the "volatile situation" to which you referred, and describe the measures you implemented in response.

As I recall, when I became Chief of the Government Operations Section in the fall of 1969, the Northern, Central, Southern, and, to some extent, Eastern District of Califor-

nia were experiencing mushrooming caseloads involving violations of the Selective Service Act and that the prosecution policies pursued by the United States Attorneys in these districts were not uniform.

I met with the United States Attorneys in order to bring about consistent policies and then undertook to help solve the particularly difficult situation existing in the Northern District of California. It is my recollection that at that time there were approximately 7,000 cases in the United States Attorney's offices involving alleged violations of the Selective Service Act and that many draft registrants were seeking to transfer their registration from their local draft boards around the country to the Northern District of California, making it even more difficult for the Selective Service system to properly function.

In February or March of 1970, I met with the United States Attorney for the Northern District of California and with the Chief of the Criminal Division of that office and discussed a means by which the government could insure proper and timely prosecution of cases against draft evaders.

The United States Attorney informed me that plans were being made to systematically review as many cases and proceed with only those which were "airtight" from a prosecutor's point of view. He intended to utilize attorneys from the Judge Advocate General's (JAG) Office of the various services who were on their annual two-week tour of duty for the initial review.

Expanding on this plan the United States Attorney coordinated the work of JAG attorneys to perform the initial review of the 7,000 cases. As I recall, their initial review found defects requiring the return of the cases to the various draft boards, thereby reducing the number of prosecutable cases, in their view, to around 700 cases. The United States Attorney then, in a concerted effort by the lawyers of his office, reviewed the 700 cases for prosecutive merit, ultimately reducing the number to be presented to the Grand Jury to 300 cases.

Because of the terrific impact of 300 such cases on the docket of the Northern District of California, I made an appointment with the then Chief Judge Carter in San Francisco to inform him of the anticipated caseload which I anticipated would begin to flow in the fall of 1970 so that adequate judge power could be made available to try those cases. Of course, this was prior to the enactment of the Speedy Trial Act of 1975, but I informed him that I felt it was important that the government be able to carry out its responsibility to properly enforce the Selective Service Act.

6. In January of 1970 the Supreme Court issued two opinions which held that the government's prosecution of men who had refused induction into the armed forces was improper. In those cases, defendants who would not otherwise have been drafted were given induction notices after they refused to carry draft cards

in protest against the Vietnam War. As a consequence of those decisions the Justice Department was forced to dismiss nearly 300 cases then pending.

What was your role in the decision to bring these cases in the first place, and in retrospect, do you believe that those prosecutions were proper?

The Government Operations Section was formed in late September of early October of 1969 so, of course, I played no role in any case which might have come before the Supreme Court in the fall of 1969. I am in no position to comment on the propriety of those prosecutions, except to say that at a later time I counseled strongly against pursuing prosecutions of persons who burned their draft cards as a political gesture as well as the prosecution of persons who penciled crude messages on draft cards and sent them in to government officials.

7. What, in your view, should the government do in the future, if it is once again faced with widespread resistance to government policy, to balance the need to preserve the rule of law within the right to political dissent?

Generally, if the government is faced with widespread resistance to government policy in enforcement of the law as a particular administration perceives it, I believe that those at the Department of Justice should assert leadership to promptly review prosecution policies and investigative policies to insure that a consistent, fair, and strong uniform policy is established throughout the country to enforce the law promulgated by the Congress of the United States.

8. Why did the Department of Justice decide during your tenure as Chief of the Government Operations Section to initiate for the first time prosecutions against corporations and labor unions for making illegal political campaign contributions? Was this policy retroactive to the 1968 campaign, or did it apply only to future campaigns? If it was not retroactive, why not?

It is my understanding that the Department of Justice pursued prosecutions under the Corrupt Practices Act of 1925 under the prior administration and had been successful in obtaining some convictions under 18 U.S.C. § 610. When I became Chief of the Government Operations Section in the fall of 1969, the Election Unit was moved into the new section and we continued to pursue prosecutions against corporations, labor unions, and national banks and banks insured by the Federal Deposit Insurance Corporation for making illegal campaign contributions. The investigations were of past activities of those entities and none applied to future campaigns.

9. Both John Mitchell, the Attorney General, and Will R. Wilson, the Assistant Attorney General for the Criminal Division with whom you served at Justice, were accused of illegal, or at least unethical conduct. To what extent were you aware of any actions on the part of Mitchell or Wilson which you believed to be improper?

I was aware of no conduct of Attorney General John Mitchell which was of a criminal nature. I left the Department of Justice in July of 1971 to become the United States Attorney for the Western District of Texas and was stunned when I, thereafter, heard of the criminal conduct of Attorney General Mitchell.

I know of no conduct of Assistant Attorney General for the Criminal Division, Will R. Wilson, that was either criminal or unethical and was surprised and saddened to read of the charges of unethical conduct in Texas. Mr. Wilson is recognized in Texas as having performed outstanding public service as a district attorney and as a justice of the Supreme Court of the State of Texas. I believe him to be a man of great character. It was he who persuaded me to leave my private practice in Waco, Texas, and commit myself to a two-year period of service for the Department of Justice.

10. The FBI Director statute was rewritten in 1976 to limit each Director to one ten-year term. This change was made to insulate the Bureau from political influence.

a. In what partisan political activities have you engaged, as a candidate or otherwise, during your career?

I served as the campaign chairman for McLennan County, Texas, for the re-election of Senator John Tower and, thereafter, as campaign chairman for the election of Carl McIntosh to the Texas Legislature. Thereafter, in early 1969, I ran in a non-partisan election for a position as city councilman in the City of Waco, Texas. I was elected and served from April 1, 1969, until I resigned prior to my joining the Department of Justice in Washington, D.C. on August 1, 1969.

b. Do you have any political loyalties which might impact on the exercise of your duties as FBI Director?

I know of no political loyalties which might, in any way, impact on the exercise of my duties as FBI Director.

11. The FBI has been criticized for its conduct of ABSCAM-type "sting" operations. This criticism concerns the possibility that the Bureau has targeted individuals instead of subject areas in its investigations. In response, the Bureau has set forth guidelines for the conduct of such operations.

a. In what ways might you amend the guidelines to insure that such operations are conducted pursuant to the highest professional standards in the future?

Although I am not fully familiar with specific guidelines, it is my understanding that the Attorney General has established Guidelines on FBI Undercover Operations which require authorization for undercover operations in some instances only by the Director or an Assistant Director designated by the Director and in other cases approval by a special agent in charge of a field office

based upon a written determination that guidelines issued by the Attorney General have been satisfied.

You may rely that I will personally review all guidelines of the Attorney General which relate to the FBI and, in every instance, take steps to insure myself that such operations are conducted compatibly with the Attorney General's guidelines.

b. Would you support the enactment of a statute that would guarantee the existence of fundamental safeguards in this area?

If, after a careful review of the Guidelines of the Attorney General I became convinced that the guidelines were inadequate and could not properly protect the constitutional rights of citizens of the United States, I would make my views known to the Attorney General and discuss with him and with this Committee the propriety of enacting a statute relating to conduct of "sting" operations.

William S. Sessions

WILLIAM S. SESSIONS

JURAT

STATE OF TEXAS)
)
COUNTY OF BEXAR)

BEFORE ME, the undersigned authority, on this 4th day of September, 1987, personally appeared WILLIAM S. SESSIONS who, after being by me duly sworn, stated that his answers to the foregoing eleven questions are true and correct.

My Commission Expires On
2/26/89

Sarah W. Munford

NOTARY PUBLIC
Sarah W. Munford, Notary Public
Bexar County Texas